Independent Police Review
Investigator: Eric Berry
Case Reviewer: Ross Caldwell / Kelsey Lloyd

Confidential Investigative Report

Incident Date: 05/29/20 – 11/16/20
Case #: 2022-B-0025
Complainant: Portland Police Bureau

Involved Members:

Officer	DPSST	Assignment	Category	Allegation #
Deputy Chief Chris Davis	#36611	Former member	Procedure	1
Assistant Chief Jami Resch	#37142	Former member	Procedure	2
Assistant Chief Charles Lovell	#41706	AC of Services	Procedure	3

Witness Members Interviewed:

Officer	DPSST	Assignment
Inspector General Mary Claire Buckley	N/A	OIG
Assistant Chief Craig Dobson	#35609	AC of Operations
Commander Franz Schoening	#41832	Specialized Resources Division
Commander Robert Simon	#41758	North Precinct Commander
Captain Jacob Clark	#43501	Detectives Division
Detective Erik Kammerer	#29988	Detectives Division

Applicable Directives:

Directive 315.30 – Satisfactory Performance
Directive 635.10 – Crowd Management/Crowd Control
Directive 1010.00 – Use of Force

Allegations:

1. Former Deputy Chief Christopher Davis #36611 failed to adequately clarify misunderstandings and misapplications of PPB policy governing the use, reporting, and review of force during crowd control events starting on May 29, 2020, and ending on November 16, 2020 (PROCEDURE) (Directive 315.30 – Satisfactory Performance; Directive 635.10 – Crowd Management/Crowd Control; Directive 1010.00 – Use of Force)

2. Former Assistant Chief Jami Resch #37142 failed to adequately clarify misunderstandings and misapplications of PPB policy governing the use, reporting, and review of force during crowd control events starting on May 29, 2020, and ending on November 16, 2020 (PROCEDURE) (Directive 315.30 – Satisfactory Performance; Directive 635.10 – Crowd Management/Crowd Control; Directive 1010.00 – Use of Force)

3. Assistant Chief Charles Lovell #41706 failed to adequately clarify misunderstandings and misapplications of PPB policy governing the use, reporting, and review of force during crowd control events starting on May 29, 2020, and ending on November 16, 2020 (PROCEDURE) (Directive 315.30 – Satisfactory Performance; Directive 635.10 – Crowd Management/Crowd Control; Directive 1010.00 – Use of Force)

Incident Overview:

In 2014, the City of Portland and the United States Department of Justice (DOJ) entered into a Settlement Agreement related to the Portland Police Bureau (PPB). The Settlement Agreement was the conclusion to a DOJ lawsuit alleging PPB engaged in a pattern or practice of using unconstitutional force against people with an actual or perceived mental illness. Under the terms of the Settlement Agreement, the City of Portland agreed to make several changes related to PPB's practices and policies. This Settlement Agreement remains in effect and DOJ continues to monitor Portland's efforts to comply with it.

On 05/25/20, George Floyd was murdered by a police officer in Minneapolis, Minnesota. Shortly after this incident, large protests began taking place in many cities around the United States, including Portland. In Portland these protests continued for several months. PPB and other law enforcement agencies responded to these protests. PPB officers documented using force at least 6,000 times during their responses to the protests. Numerous community members expressed concern about the nature and extent of force used by PPB officers during their responses.

On 04/02/21, the DOJ notified Portland it was no longer in compliance with the terms of the Settlement Agreement. The City and DOJ entered into negotiations and mediation related to bringing Portland back into compliance with the terms of the Settlement Agreement. During these talks, the City and DOJ agreed to amend their Settlement Agreement. On 04/15/22, Judge Robert Simon approved the amended Settlement Agreement.

Paragraph 192 of the amended Settlement Agreement describes several aspects of PPB's response to the 2020 protests that the City agreed to investigate. These aspects include the nature of training provided to members of PPB's Rapid Response Team (RRT), inappropriate orders given by PPB command staff to use force, inadequate review by PPB command staff of required documentation of officers' uses of force, and PPB command staff's failure to clarify misunderstandings and misapplications of PPB policies to officers.

Investigation Narrative:

Specifically related to this investigation, paragraph 192 of the Settlement Agreement states the City agrees to identify and investigate "the PPB Commanders and above who failed to timely and adequately clarify misunderstandings and misapplications of PPB policy (including this Agreement) governing the use, reporting, and review of force during the crowd control events starting on May 29, 2020, and ending on November 16, 2020." (Exhibit 1) Like the rest of paragraph 192, this section is notable for the conclusory manner in which it was written. This section appears to conclude senior Police Bureau command staff failed to timely and adequately clarify Bureau policies related to force, even before IPR started this investigation.

Notwithstanding paragraph 192's conclusory language, the 2020 protests did represent a crisis for the City of Portland and the Police Bureau, which manifested itself in multiple ways. The City experienced nearly six months of upheaval that completely overwhelmed the Bureau's systems related to quantifying, analyzing and investigating uses of force by PPB members. A critical assessment conducted by Independent Monitor LLC titled, "The Handling of the 2020 Protests and Riots in Portland, Oregon: An Independent Review," (Exhibit 24) provides excellent context regarding the challenges the City and the Police Bureau faced during this time. This context is important for this investigation and will be discussed further where relevant.

This investigation will first briefly review why there was a need for senior Police Bureau command staff to clarify force policies. Next, this investigation will address the systems that broke down during the 2020 protests. Finally, this investigation will address whether the actions that specific senior command staff took to clarify the Bureau's force-related policies were sufficient.

During 2020, there was an urgent need for command staff to clarify Bureau policies

There were many indications that senior Bureau command staff should have taken a closer look at how PPB officers used force during the 2020 protests. All of these indications came to light and were readily apparent shortly after protests began.

Shortly after the protests began in 2020, DOJ staff and the Compliance Officer and Community Oversight Liaison (COCL) team began making increasingly frequent requests for information to PPB and the City, expressing concern about uses of force and about how those uses of force were being reviewed. These contacts came in the form of emails, document requests and questions in meetings. They became more frequent as the protests continued and as the AAR process was unable to keep up with the volume of force used.

During 2020, protest activity in Portland received extensive and sustained media coverage from both local and national news media outlets. Media coverage frequently expressed concern about the extent and nature of force used by police, and very often included video footage of police officers using force against protesters. Community members in Portland also frequently posted video footage of police officers using force against protesters to social media. In both instances, the video footage was often edited down to short clips. This editing tended to remove important context about incidents and made it difficult or impossible to identify the involved community members or officers, or even which agency particular officers worked for.

During 2020, IPR received hundreds of complaints regarding PPB's response to protest activity. Many of these community members, including those complaining about their own experiences as well as those providing more general feedback about PPB's actions, expressed grave concern about the Bureau's uses of force. The volume of complaints quickly overwhelmed IPR and IA's ability to screen and investigate force complaints in a timely manner.

During 2020, multiple lawsuits were filed against the City and PPB. Some of these eventually led to judges issuing Temporary Restraining Orders (TROs) against the Police Bureau. Each TRO restricted the Bureau's force options and its ability to respond to protest activity.

During 2020, several City advisory bodies, each made up of volunteer community members, expressed concern about the Police Bureau's response to protest activity, and made inquiries and requests to PPB to provide information. These groups included the Portland Committee for Community Engaged Policing (PCCEP) and the Citizen Review Committee (CRC).

During 2020, elected officials, from Portland City Council to the State Legislature, considered various proposals to restrict law enforcement. The Portland City Council frequently discussed cutting PPB's budget. State legislators passed multiple bills which placed additional restrictions on how police could respond to protest activity.

Finally, there was the sheer volume of the force the Police Bureau used in 2020. Over the course of the 2020 protests, PPB officers documented using force over 6,000 times. This quickly overwhelmed the After Action Review (AAR) process that PPB uses to quantify and review uses of force.

There were many situations in which officers were clearly justified in using force under Directive. PPB members were subject to significant, at times shocking, violence. PPB members responding to protest activity during 2020 sustained hundreds of documented injuries. Without timely and accurate review however, it was impossible for PPB to assess which uses of force were justified and whether individual officers were following policy. In a sense the Bureau was flying blind and trusting its officers to follow policy without the ability to consistently verify that this was happening. Importantly, this was long before PPB issued body worn cameras, which provide an essential tool for reviewing officer behavior.

In short, the outcry about police use of force during the 2020 protests (which were themselves about police brutality) was deafening and impossible to miss. Based on the extent of concerns raised via media coverage, social media activity, IPR complaints, TROs, and City advisory boards – as well as the sheer extent of the force the Bureau used and the breakdown of its AAR process – it seems reasonable to conclude senior Police Bureau command staff would see the need to ensure PPB members were using force appropriately.

NOTE: IPR investigated the delays in and breakdown of PPB's AAR process during 2020 in case #2022-B-0024. Refer to that case for details. Where this investigation addresses AARs, it addresses whether senior Bureau command staff took sufficient action to clarify the expectations and requirements of the Bureau's AAR process.

IPR interviewed relatively few witnesses for this investigation

This investigation was hampered by multiple issues and obstacles. Chief among them were the departures and/or retirements of multiple senior Police Bureau command staff. In the years since 2020, many PPB officers and command staff left the Police Bureau, either to retire or in many cases to go on to work for other law enforcement agencies. These departures affected IPR's ability to conduct witness and involved member interviews for this investigation. IPR has no authority to compel a former Bureau member to make themselves available for interview.

Another obstacle that hampered this investigation was the nature of how senior Police Bureau command staff carried out their work during 2020. During the course of conducting various paragraph 192 related investigations, IPR learned senior command staff tended to communicate in person, in meetings, or by telephone, and they did not tend to generate much written documentation regarding the decisions they reached. Additionally, other City entities, including the Mayor, other elected officials, and City Attorney staff regularly took part in Bureau deliberations and discussions regarding how to respond to the 2020 protests. These obstacles made it difficult to determine which senior Police Bureau command staff was responsible for a particular decision, and whether command staff made a particular decision on their own, or based on advice or direction from other City entities. As a result of these obstacles IPR was forced to rely on relatively few witness interviews and relatively little documentation for this investigation.

IPR interviewed Assistant Chief Craig Dobson #35609 as a witness member on 02/07/25. AC Dobson worked very frequently as a CMIC during 2020, he had frequent contact with Chief's Office staff, and he is one of the Bureau's foremost subject matter experts on public order events. AC Dobson also previously served as a force inspector and helped develop the Bureau's force data collection report (FDCR).

Police Bureau force inspectors are responsible for ensuring FDCRs and AARs are completed in an accurate and timely manner. IPR interviewed Commander Robert Simon #41758 as a witness member for this investigation on 02/27/25. Commander Simon was the Bureau's force inspector for much of the 05/29/20 – 11/16/20 timeframe of this investigation, and had frequent contact with Chief's Office staff.

IPR interviewed Police Bureau Inspector General Mary Claire Buckley on 02/27/25. IG Buckley oversees the Office of the Force Inspector and has regular contact with Chief's Office staff, as well as DOJ, and the Compliance Officer and Community Oversight Liaison (COCL) team related to the City's compliance with the Settlement Agreement.

IPR interviewed Captain Jacob Clark #43501 twice for its paragraph 192 investigations. IPR interviewed him as a witness member on 07/28/22 for IPR case #2022-B-0022, related to the crowd control training provided to PPB officers. IPR interviewed Captain Clark as a witness member again on 08/15/24 for IPR cases #2023-B-0069 and #2023-B-0070, related to the dispersal orders given by CMICs. With Captain Clark's permission, IPR incorporated statements Captain Clark made during his previous witness interviews into this investigation report.

During the course of other paragraph 192 related investigations, IPR interviewed many other Bureau members who took part in responding to the events of 2020. Although these interviews related to other investigations, during them IPR often questioned members regarding their interactions with senior Bureau command staff, and their awareness of the actions senior command staff took. IPR used this information to better understand the Bureau's overall response to the 2020 protests, and to appropriately identify witness and involved members for this and other investigations. IPR also directly quoted some of the witness members it interviewed for other paragraph 192 investigations in this report, when the issues witness members discussed directly related to this investigation. For further details, refer to IPR cases #2022-B-0022, #2022-B-0023, #2022-B-0025, #2023-B-0069, and #2023-B-0070.

IPR identified multiple senior command staff as involved members

IPR identified former Deputy Chief Christopher Davis #36611, former Assistant Chief Jami Resch #37142, and Assistant Chief Charles Lovell #41706 as involved members for this investigation.

AC Resch played an important role in trying to ensure the Bureau completed Force Data Collection Reports (FDCRs) and AARs as required during 2020. IPR investigated AC Resch as an involved member under case #2022-B-0024, related to the actions she directed be taken to address delayed FDCRs and AARs. IPR also listed AC Resch as an involved member for this investigation, to determine whether she took appropriate steps to clarify Bureau policies related to FDCRs and AARs.

AC Resch started working for the Police Bureau in 1999 and was employed there over 23 years. AC Resch became PPB's Chief of Police on 12/31/19. She served as Chief until 06/11/20, when she voluntarily resigned from that position and named Chief Lovell as her successor. AC Resch went on to serve as Assistant Chief of Investigations under Chief Lovell. AC Resch retired from PPB on 01/13/23. She is currently Deputy Chief of the Springfield, Oregon Police Department.

Christopher Davis served as PPB's Deputy Chief from 12/31/19 to 09/02/21. As the Deputy Chief, Davis was responsible for overseeing the Bureau's day-to-day operations and played a large role in directing the Bureau's response to the 2020 protests.

Assistant Chief Charles Lovell #41706 served as PPB's Chief from 06/11/20 until 10/11/23, a span of time that includes the majority of protest activity during 2020. As Chief, he was in charge of the Police Bureau and oversaw the work of DC Davis and his Assistant Chiefs, including AC Resch. Accordingly, IPR identified AC Lovell as an involved member for this investigation.

IPR regularly updated DOJ on the status of its paragraph 192 investigations

IPR began its paragraph 192 related investigations in January 2022. After these investigations were underway IPR had occasional contact with DOJ staff, and provided updates as they were requested, either directly or as relayed by CAO staff. On 09/08/22, IPR's management briefed DOJ on the status of its paragraph 192 related investigations, including this investigation. During this meeting, DOJ staff indicated they approved of IPR's overall methodology, as well as the scope and nature of this investigation.

On 07/19/23, IPR again met with DOJ staff, as well as COCL, and briefed them on the status of its paragraph 192 related investigations. On 05/14/24, IPR again met with DOJ staff and briefed them on the status of its paragraph 192 related investigations. During both meetings, DOJ staff again indicated they approved of IPR's overall methodology, as well as the scope and nature of this investigation.

During 2020, multiple Police Bureau force related systems broke down

During this investigation, IPR identified multiple Police Bureau systems that broke down due to the unprecedented duration of the 2020 protests, the volume of force used in the police response, or both. These issues limited the Bureau's ability to assess the force it was using in anything close to real time. These instances include the Bureau's efforts to ensure officers complied with the expectations regarding the use, reporting, and review of force via the AAR process (described in applicable Directive as well as the Settlement Agreement), the Bureau's efforts to address the backlog of police reports awaiting

transcription that emerged in 2020, the accuracy of records related to the protest response, and the prohibition on video or livestreaming in the Command Center.

Problems emerged with Police Bureau's system for processing police reports

During the summer of 2020, problems began to emerge with the Bureau's approach to recordkeeping. Because the Bureau's operational periods spanned two calendar days, almost inevitably officers sometimes documented their actions under the wrong key case number. In other cases, officers documented their more generalized actions in a report associated with a specific person's arrest, or vice versa. The protest activity and the police response to it was similar from one night to the next, most of the people police documented using force against were never identified, and there was typically no BWC footage of an incident.

The Police Bureau's Records unit struggled with the sheer volume of reports it had to take through its transcription process, or the process by which the Bureau finalizes police reports and ensures they are accurate and complete. At the same time, the Police Bureau was responding to the difficulties of in-person work during the COVID-19 pandemic, and protests were often large or violent enough that non-sworn Police Bureau staff like Records unit staff could not, or were afraid to, enter the Justice Center to work. During the 2020 protests, Records was only able to staff a single shift per day, rather than the usual two shifts. During the 2020 protests, Records staff had not been issued equipment which allowed them to work remotely.

As the summer of 2020 wore on, the manager of PPB's Records unit informed IPR that there was a backlog of several thousand reports that had not yet been transcribed. The manager advised IPR that Records unit staff had kept a record of the reports that had not yet been transcribed, and had prioritized transcribing relatively important reports, like FDCRs and arrest reports, over less important reports like informational or supplemental reports. The manager advised IPR that the records backlog would likely continue under current conditions, unless Records staffing was increased, or the Bureau facilitated the Records unit's ability to work remotely. IPR witnessed many Records unit employees make prolonged and extensive efforts to bring this backlog under control but, as with many things related to the 2020 protests, the volume was simply overwhelming. Ultimately this created a situation in which it was not possible to know if all reports had been gathered for a certain night of protests in order to have a comprehensive understanding of what happened from the perspective of the various PPB members that worked that night.

FDCR and AAR processes not completed on time

Force Data Collection Reports (FDCRs) and the After Action Review (AAR) process were implemented as part of the Settlement Agreement. Together, FDCRs and AARs form the system the Bureau uses to review and quantify force incidents. An officer documents all their uses of force in an FDCR. A supervisor, most commonly the officer's sergeant, then reviews the officer's use of force in an AAR.

These reports are thorough and time-consuming to write and review. They were not designed with mass protest events in mind. These reports require an officer that uses force to detail his various uses of force in an incident and describe his justification. The supervisor conducting the AAR then begins an on the spot

investigation by interviewing the subject of the force and speaking to witnesses and the involved officer. The supervisor then determines if the force was in police or not and passes the report up the chain of command and it is again reviewed by a PPB member of higher rank, with more serious uses of force passing through multiple levels of command review. A supervisor is expected to complete an AAR within 72 hours of the force incident. The review of an AAR through the officer's chain of command must be completed within 21 days, with Chief's office staff having an additional 7 days to complete their review of serious uses of force.

In short, this process does not work in a mass protest event. During the 2020 protests there were at times thousands of people, most wearing masks, sometimes mostly all wearing black. in a constantly moving crowd, making individual community members effectively anonymous. Similarly, most officers were dressed in riot gear and displayed identification numbers instead of names. In many instances, officers from multiple law enforcement agencies, wearing similar appearing riot gear, responded to the same protest.

The information officers entered into their FDCRs was often extremely general. Reports would describe using force on several protesters all dressed in black because they were engaged in active aggression but without further specificity. Often officers wrote their FDCRs at the end of a chaotic night to the best of an officer's recollection. There was no realistic way for supervisors to identify the subjects of force or witnesses and interview them or gather any independent information. Ultimately, although officers generated a great deal of documentation describing their uses of force, very little of it was useful for reviewing or investigating those uses of force.

During 2020, the Bureau's FDCR and AAR processes soon became seriously delayed. As protests continued for days, then weeks, and then months, supervisors of the Bureau's crowd control squads were not able to complete their assigned AARs within the expected timeframe. This not only meant the Bureau had a substantial number of force investigations it was required by the Settlement Agreement to complete, it also meant senior Bureau command staff were not receiving the information about the Bureau's uses of force that the AAR process was intended to provide to them in anything approaching a timely manner. The information senior command staff received about the force their officers was using was, at best, anecdotal.

This lack of information and awareness by senior command staff of the force officers used in turn placed more emphasis on the City's accountability system. IPR and IA conducted numerous administrative investigations regarding the force PPB officers used in various incidents during 2020, including high profile or concerning force incidents that received media attention. However, even under perfect conditions administrative investigations take months, where the AAR process was intended to take days. As the AAR process became more delayed, misconduct investigations by IA and IPR also fell months and then years behind schedule. The 2020 protests occurred long before the Bureau issued body worn cameras, so without timely AAR reports, and with administrative investigations delayed, senior Bureau command staff had no other reliable way to assess their officers' uses of force.

NOTE: IPR investigated the breakdown of the Bureau's FDCR and AAR processes under case #2022-B-0024. Refer to that case for further details.

Accuracy of records

The Police Bureau uses the National Incident Management System (NIMS) and the Incident Command System (ICS) to manage and coordinate its response to various incidents, including large protests whether they are planned or unplanned. NIMS and ICS are both standardized approaches to incident management.

IPR obtained and reviewed Police Bureau ICS-related documents for its paragraph 192 investigations, including Incident Action Plans (IAPs) and ICS-214 Activity Logs. The City considers ICS-related documentation to be confidential and does not ordinarily release it. Although the City Attorney's Office ultimately approved the release of this material to IPR, it admonished IPR not to release it to third parties, and to return it to the CAO at the conclusion of this investigation.

IPR reviewed the IAPs and ICS-214s to identify who held various positions on particular dates. ICS-214s, commonly called scribe's logs or activity logs, document radio traffic between PPB units, including the CMIC, Operations Section Chief, and Squad Leaders. In its review however, IPR found both documents appear to have been written from templates. ICS-214s were typically prepared by very new PPB officers, with no experience in police work or crowd control. In at least one instance, IPR found a scribe had made entries on the ICS-214 for one date that described actions PPB took on a different date (Exhibit 26). In other cases, there are two or more ICS-214s for one date, while other dates are missing. It appears possible then that these templates may have been occasionally inappropriately written over, or that one date's events may have been memorialized on the ICS-214 for another date.

In other cases, IPR found information contained in ICS-214s that the Bureau did not appear to have documented elsewhere. As one example, in July 2021, some community members raised concerns about unsubstantiated reports the Police Bureau had not appropriately documented having received and presumably used a variety of less lethal munitions from other law enforcement agencies. IPR conducted a preliminary investigation regarding this issue, to determine whether IPR should further investigate. Although IPR questioned multiple Police Bureau personnel and reviewed extensive records, it did not find dispositive information related to the Police Bureau having received less lethal munitions from other law enforcement agencies or having tracked or inventoried them inappropriately. IPR concluded this initial investigation with a memorandum recommending (Exhibit 27) a Precinct Referral (a non-disciplinary informational referral) that the Bureau improve its record keeping of less lethal munitions. Later, while IPR staff reviewed ICS-214s for this investigation, they found a scribe had documented the Bureau receiving a number of less lethal munitions from another law enforcement agency on 06/03/20 (Exhibit 28). Had this information been available to IPR at the time of its earlier investigation, IPR may have further investigated the issue. Beyond that, this seems like a strange place to maintain this type of record.

AC Dobson indicated: During the 2020 protests, ICS-related documentation like ICS-214s were maintained as fillable PDF files. Unlike AAR documentation, which has since migrated to a different system that is easier to track, the Bureau still maintains ICS-related documentation as fillable PDFs.

AC Dobson indicated: Toward the end of June 2020, protest activity slowed in Portland. Things slowed enough that the Bureau shut down the IMT from about 06/20/20 to 06/25/20. Protest activity increased at that point and the Bureau reactivated the IMT. The Bureau does not assign scribes to write ICS-214s when the IMT is not activated. In some instances, the Bureau wound up responding to protest activity

without activating the IMT, such as a protest on 06/25/20 at North Precinct. Captain Passadore managed the Bureau's response that evening in his capacity as North Precinct command staff, not as a CMIC.

Legal rulings prevented PPB from livestreaming protest activity

Oregon Revised Statute (ORS) 181A.250 (Exhibit 16), which was already in effect at the time of the 2020 protests, states:

> *No law enforcement agency, as defined in ORS 181A.010 (Definitions for ORS 181A.010 to 181A.350), may collect or maintain information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct.*

The City had interpreted this statute to mean it could not make video recordings of protests, unless the recordings documented criminal activity. However, PPB had also maintained a livestream feed of protest activity which it broadcast but did not record. The ACLU filed suit against the City to stop the livestreaming practice. On 07/30/20, Multnomah County Circuit Court Judge Stephen Bushong issued a TRO (Exhibit 12) in the lawsuit which enjoined the City from "collecting or maintaining audio or video of protesters" engaged in activity protected by the First Amendment, and effectively ended the City's practice of broadcasting the livestream.

The Critical Assessment also raised concerns about PPB's inability to make use of video footage of protest activity, because of how ORS 181A.250 has been interpreted and applied, noting, "We have worked in cities across the United States and were shocked by the lack of video available in PPB's command post." (Exhibit 24, pp. 69)

Other problems

During this investigation, IPR also identified and reviewed other issues and communication breakdowns that may relate to the appropriate clarification of when PPB members were permitted to use force. These issues include the Bureau's efforts to select and train an adequate cadre of Crowd Management Incident Commanders (CMICs); the decision to maintain a large, fenced off area in downtown Portland; and the lack of support and increasing isolation front line PPB members responding directly to protest activity described experiencing.

Lack of CMICs

AC Dobson indicated at the time of the 2020 protests, the Chief's Office determined which members were authorized to work as CMICs. AC Dobson indicated because of the amount of people it takes to staff an IMT, almost all command staff from lieutenant up are required to participate either in the Critical Incident Command (CIC) track, or the CMIC track. Many Bureau command staff elect to participate in the CIC track, instead of the CMIC track. AC Dobson stated, "We don't get a lot of volunteers. Oftentimes you're selected." (Dobson interview, line 77)

AC Dobson indicated: Prior to 2019, former PPB Commander Wendi Steinbronn frequently worked as a CMIC, and also served informally as a coordinator for the CMIC program. Although AC Dobson had trained all the Bureau's CMICs, he himself had not served as a CMIC until 2019, after Commander Steinbronn retired. He also took over her duties as the coordinator for the CMIC program at that time.

AC Dobson indicated: Several long-serving CMICs retired or moved on from PPB, before or shortly after the 2020 protests began. These members include Assistant Chief Michael Krantz (retired 08/08/20), Captain Stephanie Lourenco (retired 08/12/20), and Commander Steinbronn (retired 11/27/19).

AC Dobson confirmed only the following eight Bureau command staff served as CMICs during the 2020 protests: AC Dobson himself, Captain David Abrahamson, Commander Erica Hurley, Assistant Chief Michael Krantz, Commander Michael Leasure, Captain Chris Lindsey, Captain Anthony Passadore, and Captain Tim Robinson. Asked why so few members worked as a CMIC, AC Dobson stated:

> *Because of the liability and the risk involved, it's not a well sought after position. Not many people want to take on the risk or the challenge that it brings, knowing that, although frequency wise we have more here than other places, it's a high liability, low frequency event in most places across the United States, except here. And with that, if you don't have to take on liability, why would you want to take on that liability? Here we are almost five years after the event, and I'm still working through that. (Dobson interview, lines 145-149)*

AC Dobson further stated:

> *Still dealing with lawsuits from it. And so people recognize that piece. And so it's not - and at the time, and still consistent with that, there's no incentive. There's no extra pay. There's no anything that comes along with that extra risk. And so I could work as a captain or a commander somewhere and not have extra duty, not work night shift with my middle-of-the-week days off that I had in 2020, and still get paid the same amount of money. And so that's why you did not see a lot of folks step up to the plate for that piece. (Dobson interview, lines 151-155)*

When asked, AC Dobson indicated he did not know whether AC Resch, DC Davis, or Chief Lovell played a role in selecting the CMICs who worked in 2020. AC Dobson stated, "I'm sure there was a discussion amongst them, knowing how the Chief's Office works." (Dobson interview, lines 167-168)

The critical assessment also made note of the Bureau's lack of command staff qualified to take on CMIC assignments. The assessment's ninth recommendation states, "PPB Should Prepare a Deep Bench of Leaders to Serve as Incident Commanders and Operations Section Chiefs." (Exhibit 24, pp. 77) The assessment expanded on this recommendation, stating:

> *PPB did not have enough trained leaders to serve as incident commander and operations section chiefs in 2020. To ensure operation readiness, it must prepare a deep bench with the requisite ICS training, command-level public order training, and actual experience to ably serve in those roles now and in the future. All must be required to train and drill with*

> *the new public order team to ensure familiarity with its strategies, tactics, and tools, and to create the trust between the command post and the field that was sometimes lacking in 2020. (*Exhibit *24, pp. 77-78)*

AC Dobson indicated he agreed with the Critical Assessment's conclusion that the Bureau did not have enough staff trained to serve as ICs and Operations Section Chiefs during 2020. AC Dobson stated:

> *If you look, I mean, literally 2020 was the perfect storm of where everything happened. You couldn't have asked for a better 1000-year flood. Steinbronn retires. Krantz gets pulled up into the Chief's Office and then moves on to Bend. Lourenco retires, who's also another CMIC, and three of your main four at that time are gone, or not able to. And so we had planned, recognizing that some of them were getting ready to retire, we had planned for in May to have another CMIC course to teach a new batch and get them up to speed. In March the governor puts the kibosh on us being able to meet in groups of greater than six, or anything. And so all of our training that we had planned getting prepared for the election which was to happen in November, all got squashed. And so there was no way for us to build. We recognized we had to rebuild the program, but everything fell before we could actually get to that point. And so at that point we got what we got. (Dobson interview, lines 756-765)*

The duration and intensity of the 2020 protests took the City, PPB, and likely most Portlanders by surprise. Between the pace of the Bureau's operations, and the limitations imposed by the COVID epidemic, it was likely not possible for the Bureau to have added more CMICs once protests began in 2020. However, given the serious and consequential decisions CMICs must make, it likely would have benefitted the Bureau to have had a deeper bench of trained and qualified CMICs during the 2020 protests, as it may have given the Bureau more capacity, as events unfolded, to review their response to the protests.

NOTE: IPR investigated the actions of CMICs during 2020 generally under case #2022-B-0023. IPR investigated the actions of specific CMICs during 2020 under cases #2023-B-0069 and #2023-B-0070. Refer to those cases for details.

The fence

When IPR interviewed Captain Clark in July 2022, he stated when the 2020 protests started police initially tried to fence off much of the downtown area, "which was a disaster." (07/28/22 Clark interview, line 534) Captain Clark indicated police then reduced the size of fenced area to just around the Justice Center, but maintaining the fence still caused problems. Captain Clark stated, "We learned that fences just don't work." (Clark 07/28/22 interview, lines 535-536)

Captain Clark indicated DC Davis determined the Police Bureau would continue to erect a fence around the Justice Center, despite the objections of RRT members and IMT staff. Captain Clark stated:

> *I don't know the exact timeline, probably July-ish, Deputy Chief Davis came up with the idea to fence off the blocks in front of the Justice Center and the Federal Courthouse. And I wasn't a part of that meeting, but I know - or I was told the CMICs were adamant that*

> *that was a very bad idea, that we couldn't do anything to defend those fences, that they would be used against us and it would cause us a whole bunch of issues if they did move forward with that. Ultimately their concerns were disregarded and the fences went up, and as we had predicted they were used very effectively against us, and they kept setting them back up, and we would have the same problem again, and I think they did it for maybe three or four nights before that plan was finally abandoned. (Clark 07/28/22 interview, lines 536-543)*

Asked whether other Chief's office staff took part in the discussion regarding fencing off the Justice Center, Captain Clark stated:

> *I was on RRT at the time. I wasn't present for the meeting. I was told it was Commander Dobson, and now Commander Robinson that had voiced their strong concerns with that plan, and that they had voiced them with Deputy Chief Davis and that he had chosen to disregard their concerns, but I don't remember them mentioning if other members of the Chief's Office were present or not. (Clark 07/28/22 interview, lines 552-555)*

Lieutenant Rick Stainbrook worked as an RRT field commander during numerous protest events during 2020. On 08/28/24, IPR interviewed Lieutenant Stainbrook as a witness member for two of its paragraph 192 investigations, cases #2023-B-0069 and #2023-B-0070. During that interview, Lieutenant Stainbrook spoke about the Bureau's decision to maintain a large, fenced area, stating:

> *But there are some things that really stick out on those early days. I mean, a couple things that stick out. The fence. Putting the fence out, you know, in a four-block perimeter. God bless whoever set - or thought that up. But there is no way that we can secure a perimeter that large with that type of fence. And I think it just - it set a bad tone. And it - as we tried to keep those fences secure, officers just got hit with rocks, bottles, you name it. I think it precipitated uses of force both ways. I think that fence did, being out like that. (Stainbrook 08/28/24 interview, lines 599-604)*

Lieutenant Stainbrook further stated:

> *I can address the safety aspect. When they moved - when they put those fences up, and even when they pared it down to just being in front of the Justice Center, the placement of officers at those fences during that time was extremely unsafe to their physical well-being, as well as their emotional well-being. The things that were said and the stuff that was thrown at them, unacceptable. Absolutely unacceptable. (Stainbrook 08/28/24 interview, lines 661-664)*

AC Dobson indicated he spoke to DC Davis about the large security fence erected around the Justice Center and other buildings. AC Dobson indicated he had concerns about the large perimeter of the fence and spoke to DC Davis about it. AC Dobson stated:

> *Early on, one of the conversations on the fence was, again, that this is too big of a fence. You know, tactically we can't deal with a fence this big. Again, I don't know the*

> *conversations he had with the Mayor and other elected officials to decide what the size of that fence was going to be, other than, you know, there was pressure from him [Davis] to say, "We're gonna keep the fence." (Dobson interview, lines 1137-1140)*

The fence DC Davis reportedly determined the Bureau would maintain appeared to create a focal point for more violent and aggressive protesters, who frequently tried to damage or climb it. PPB officers used large amounts of force defending the fence from these protesters. In retrospect, given the fence's limited utility and the fact that the Bureau's own crowd control experts were opposed to maintaining it, it is difficult to understand DC Davis' reported insistence that the fence remain standing. It appears to be a decision that led to uses of force that may have been unnecessary or avoidable.

RRT members and an independent evaluation concluded Chief's office did not provide visible leadership

Many of the members of PPB's Rapid Response Team (RRT) that IPR interviewed for its paragraph 192 investigations indicated they seldom saw Chief's office staff during the 2020 protests. RRT cited what they perceived as a lack of leadership from the Chief's office as one of the reasons team members eventually voted to resign. A subsequent critical assessment (Exhibit 24) of the City's response to the events of 2020 concluded senior Police Bureau command staff needed to be more engaged with and visible to officers responding directly to future protest activity.

On 06/16/21, RRT members held a meeting to discuss the future of the team. The meeting followed a grand jury's 06/15/21 decision to indict an RRT member on a 4th degree assault charge, related to the officer's use of force during a protest in August 2020. During the meeting, RRT members voted to resign en masse from the team. Captain Clark, then a Lieutenant, commanded RRT at the time. Captain Clark took notes during the meeting. At the request of senior Bureau command staff, Captain Clark wrote a 06/17/21 memorandum (Exhibit 23), describing team members' reasons for resigning from RRT.

Captain Clark's June 2021 memo largely consists of bullet points describing concerns RRT members raised before they voted to resign. The fifth bullet point of the memo states:

> *The team strongly feels there has been a significant lack of leadership from the Chiefs Office, City Hall, local political leaders, and the District Attorney's Office. The team recognizes leadership is complicated and multifaceted. However, they believe there has been little clear guidance offered to the team. The lack of clear guidance has led the team to lose confidence in their decision making, and fearful of later repercussions which they are currently experiencing in the form of delayed internal investigations. (Exhibit 23, pp. 2)*

At the time of his interview in July 2022, Captain Clark, then a Lieutenant, had worked for PPB for 18 years. He first joined RRT around 2006, but left the team around 2008, when he was transferred to an undercover assignment. He returned to RRT at the end of June 2020 or in early July 2020. At that time he worked as an RRT Field Commander, working the opposite schedule of the RRT commander, Lieutenant Franz Schoening. On 08/16/21, Captain Clark's arm was broken during a protest and he transferred to the Chief's office. He later became the commander of RRT in April 2021.

Describing RRT members' interactions with Chief's office staff during the summer of 2020, Captain Clark stated:

> *Part of the problem with all of this is that, you know, command is working during the day, and we're working at night and due to COVID everything's remote. Like most of our interactions with command were remote. Obviously the team was all in-person, but, you know, very rarely - like only the few times throughout the summer the Chiefs actually came in-person to talk with the team. (Clark 07/28/22 interview, lines 518-521)*

Describing how often Chief's office staff saw RRT members in person during the summer of 2020, Captain Clark stated:

> *I remember Chief Lovell was there one time specifically, 'cause when he was trying to leave, a crowd showed up. And he was trapped at Southeast for a while. That may have been the only time I saw him. AC Resch was - she came by more frequently. She worked in the sound truck a lot. So, she was out there. [AC Michael] Frome may have come by a couple times. But it was kind of a running joke that we never saw them. We were just on our own little island. (Clark 08/15/24 interview, lines 234-241)*

Asked to respond to the fifth bullet point of Captain Clark's June 2021 memo, AC Dobson indicated ground level officers responding to protest activity felt frustrated about Chief's Office staff because they did not know details about actions command staff were taking to mitigate the circumstances the Bureau was operating under, and it was easy for officers to "point fingers." (Dobson interview, line 579) AC Dobson further stated:

> *They being the ground, pointing fingers at the Chief's Office, saying, "I'm not hearing you. You're not out here. You're not making press releases. You're not standing in front saying, 'Hey, I'm supporting you verbally, vocally,'" kind of thing. There was a lotta things going on behind the scenes that they didn't get to see. And so it's easy in that vacuum of information to start pointing fingers, you know? (Dobson interview, lines 581-584)*

AC Dobson indicated he did not believe there was a lack of leadership from the Chief's Office during the 2020 protests. AC Dobson stated:

> *Due to the fact that - they again didn't see the conversations I was having on a daily basis with them. They didn't see all of the things that were going on behind the scenes. So particularly if we started the early days of it, Chief steps down. New Chief steps up. That automatically causes, I don't want to say chaos, but it causes disruption within the organization with just that alone. With that, it's budget season. The City Council is talking about cutting budgets. So there's a frantic work behind the scenes to focus on how do we sell not cutting our budget? Not taking us down a road that we don't eventually end up going down, unfortunately. And so there's a lot of attention and a lot of energy within the Chief's Office focused on external things, trying to keep us whole, and they take that as his being disconnected or not being plugged into the moment that they're dealing with. The Chief's Office trusts that we're doing our job and doing it well. They're there, but*

> *they're also distracted by all these other things that are just absolutely pounding us. And they're trying to mitigate those pieces so that the ground can actually do their job effectively and efficiently, and there's just this disconnect. (Dobson interview, lines 616-626)*

The paragraph 192-related investigations represent only a portion of the actions the City agreed to take, as it negotiated with DOJ to amend their Settlement Agreement. Paragraph 189 of the amended Settlement Agreement calls for the City to "provide funding for a qualified outside entity to critically assess the City's response to crowd control events in 2020 in a public-facing report and prepare a follow-on review of the City's response to the report."

In May 2022, the City hired Independent Monitor LLC, helmed by Nicholas Mitchell, to complete this critical assessment. The critical assessment is a comprehensive and detailed examination of many facets of the Police Bureau's response to the 2020 protests. The resulting report, released on 08/09/23 and titled, "The Handling of the 2020 Protests and Riots in Portland, Oregon: An Independent Review," (Exhibit 24) should be reviewed in its entirety. IPR recommends anyone interested read the critical assessment, to better understand the events of 2020.

The critical assessment includes several recommendations. The assessment's eighth recommendation states, "PPB policy should require chiefs to be engaged with and visible to officers in the field during public order deployments, when possible." Expanding on this idea, the assessment further states:

> *PPB's executives have already recognized that their relative lack of visibility in the field was not ideal in 2020 and have committed to change. PPB policy should also reflect this expectation. Current PPB Directive 0635.10, Portland Police Bureau Response to Public Order Events, includes the Bureau's overall policies for the handling of public order events. It includes discussions of the responsibilities of key leaders in the incident management team, including the incident commander and operations section chief. Yet its only substantive discussions of the roles of the Chief, Deputy Chief, and Assistant Chiefs of Police relate to delegations of authority or timelines for after-action reporting.103 While it would be impractical and foolish to attempt to entirely summarize their duties in this directive, it should include some discussion of the role that they will play during public order events, particularly their duties to engage with and be visible to officers in the field. This should include but not be limited to attending pre-operational briefings, visiting with deployed officers, and debriefing after significant incidents that result in officer or community member injuries, when possible. (*Exhibit *24, pp. 77-78)*

City Attorney staff provided written responses to the critical assessment's recommendations on the City's behalf (Exhibit 25). The City's brief response to the assessment's eighth recommendation states:

> *PPB leadership has already been present for multiple events and protests in 2023 and 2024. PPB will continue to follow the Incident Command System. The Chief's Office has an active role in reviewing plans and, as noted above, the Chief's office will be present at pre-briefings and debriefings. (Exhibit 25, pp. 11-12)*

AC Dobson indicated he took part in writing the City's response to the Critical Assessment, along with City Attorney staff. Asked if the steps the City's response described in its response were sufficient to ensure the Chief's Office adequately managed the Bureau's crowd control responses, AC Dobson stated:

> *But my opinion is that they misunderstood, again going back to that - we had that discussion about the team feeling like they weren't being supported by the Chief's Office, I think got conflated with, well they need to be there. They need to physically be there and do that. Really what that should mean - what does that look like? What it should look like is the chief is willing to do a press conference to talk about what we did and why we did it. And so what you saw for the [2024] PSU event, where the chief was out there, and ahead of time said, "This is what's gonna happen." And then during it said, "This is what we're doing," that's the kind of support that the officers are looking for, as opposed to physically being there. (Dobson interview, lines 838-844)*

Regarding the Critical Assessment's recommendation that chiefs be engaged with and visible to officers in the field as the Bureau responds to protest activity, AC Dobson stated:

> *I have to be careful about what I say, 'cause I'm part of the Chief's Office now. But from my viewpoint, it's always been, yes, it's nice to show up at a briefing and say, "Hey, I'm here for ya. I support you." Do I need to see you out in the field? It's nice. You know, when I did the inauguration in 2008, Chief Ramsey literally walked the entire parade route and shook every officer's hand. Does it feel good? Of course it feels good. Is it necessary, or is that really the role of the Executive Chief of Police, to be out there shaking everybody's hand when that's happening? I don't think so. I mean, if we look at leadership, what is leadership? Leadership is how do I back you by saying publicly and showing publicly that I'm out there. (Dobson interview, lines 860-866)*

Asked whether Chief's Office staff were sufficiently present in the field as the Bureau responded to the 2020 protests, AC Dobson stated:

> *They were not present on the field. Again, they were happening at night. The Chief's Office had so much other stuff going on during the daytime that it - I don't know when they would have time to actually go out there. And what purpose would they serve actually out on the field at two o'clock in the morning, other than it feels good to have a chief out here watching what's going on? (Dobson interview, lines 883-886)*

During his interview, AC Dobson was informed that many line officers interviewed for this investigation had mentioned how often AC Dobson would debrief with the squads in person, as they demobilized for the night. AC Dobson was made aware these members indicated they greatly appreciated this habit, and they also noted other CMICs did not do as much in-person debriefing. AC Dobson stated:

> *That's my style of - you know, I took the extra time to be able to go and check on people because that's my style. Other Incident Commanders, not necessarily their style to do that, or they're tied up with other things. I would've loved to have done it every night, but there was oftentimes I'm, you know, writing my summary. I'm writing something that I didn't*

> *have time and just didn't get to it, or I was exhausted myself. (Dobson interview, lines 917-921)*

RRT members' perceptions seem to indicate a somewhat hands-off approach from the Chief's office. Whether frontline officers felt supported or not is certainly important in and of itself. Beyond that however, RRT members' perceptions appear to demonstrate an absence of connection between senior Bureau command staff and what was happening on the ground during 2020. Proving a negative is notoriously difficult. However, RRT members' perceptions, taken in aggregate, suggest senior Bureau command staff were disconnected from frontline officers responding directly to protest activity.

Police Bureau's rebuttal of Mayor Wheeler's CS gas ban demonstrates its increasing isolation

The Bureau's available force options began to be restricted shortly after protests started in Portland in 2020. On 06/06/20, Portland Mayor Ted Wheeler issued a statement (Exhibit 17) announcing he had restricted the circumstances under which PPB could use CS gas, stating in part:

> *Today, I directed Portland Police Chief Jami Resch that gas should not be used unless there is a serious and immediate threat to life safety, and there is no other viable alternative for dispersal. I strongly believe that gas should not be used to disperse crowds of non-violent protestors or for general crowd management purposes. It should only be used in response to violence that threatens life safety.*

AC Dobson indicated he did not believe the Mayor's 06/06/20 decree was more restrictive than the expectations described in Directive 635.10. AC Dobson stated, "It was, again in line with where our standard practice was, in that we weren't using it lightly." (Dobson interview, line 451) AC Dobson indicated he was not aware ahead of time that Mayor Wheeler would issue this restriction.

On 09/10/20, Mayor Wheeler issued another statement, severely restricting the Bureau's use of CS gas (Exhibit 18). In part, he stated, "Effective immediately and until further notice, I am directing the Portland Police to end the use of CS gas for crowd control." Mayor Wheeler stated, "During the last hundred days Portland, Multnomah County and State Police have all relied on CS gas where there is a threat to life safety. We need something different. We need it now." Mayor Wheeler further stated, "I call on everyone to step up and tamp down the violence. I'm acting. It's time for others to join me."

IG Buckley indicated she did not believe Mayor Wheeler gave the Bureau advance notice, before he issued his 09/10/20 statement ending the use of CS gas for crowd control. IG Buckley stated, "To my recollection, there was no advance notice that he would do that." (Buckley interview, line 508-509). IG Buckley stated, "He [Wheeler] just sent it." (Buckley interview, line 511)

IG Buckley indicated she could not recall any specific conversation with Chief Lovell regarding the Mayor's statement, but she is certain it was talked about in the Chief's office and throughout the Bureau. IG Buckley stated:

> *The sentiment was that they were, you know, tying people's hands and actually increasing the likelihood that more force would be, you know, would have to be used. Because, you*

> *know, that often was, they at least thought that, you know, it had been effective in dispersing crowds. (Buckley interview, lines 518-520)*

On 09/10/20, approximately 6 hours and 15 minutes after Mayor Wheeler issued his statement banning the use of CS gas for crowd control, the Police Bureau issued its own press release (Exhibit 19). The Bureau's press release appeared to characterize its use of CS gas differently than the Mayor's statement had. In part, the Bureau's press release states:

> *CS gas is a tool which has been used sparingly in the last 104 nights. We want to clear up a misconception that it is being used as crowd control. It is not. It is being used to disperse crowds only when there is a life safety event. Most recently, it was used to disperse a crowd from which a Molotov cocktail was thrown at officers and ended up injuring a community member who was on fire. We understand that this gas seeped into nearby homes and that is not something we desire. However, the community should be asking the rioters why they are committing violence that threatens the very lives of others nearby. (Exhibit 19)*

The Bureau's press release further states:

> *Banning the lawful use of CS will make it very difficult to address this kind of violence without resorting to much higher levels of physical force, with a correspondingly elevated risk of serious injury to members of the public and officers. CS, while effective, is a significantly lower level of force than impact weapons, which would very likely be necessary to disperse riotous groups with its prohibition. We do not want to use gas. We do not want to use any force. (Exhibit 19)*

AC Dobson indicated he could not describe his specific conversations with Chief Lovell, DC Davis, or AC Resch regarding the Mayor's decrees, the email he sent to Chief's Office staff, or the Bureau's 09/10/20 press release, but City Attorney staff were likely involved. Describing the Mayor's 09/10/20 decree and the press release the Bureau issued the same day, AC Dobson stated:

> *This much I can remember about this. There was concern at the - I wouldn't even call it Bureau level. The folks that are doing the work, there was concern about where the decision was being - you know, the Mayor's decision about it. And the pushback, I believe, because of our concern was the press release, kind of trying to explain ourselves. (Dobson interview, lines 489-492)*

Sometime after the Bureau issued its 09/10/20 press release, Mayor Wheeler sent an email to Chief Lovell and other Chief's office staff (Exhibit 20). In the email, Mayor Wheeler stated:

> *I have made clear to Chief Lovell, and I want to make it clear to you, as his Command Staff, that while I do not often issue directives to the Portland Police Bureau, when I do I expect them to be followed.*

> *Civilian oversight of the Police Bureau is set in the Portland City Charter, and every sworn officer takes an oath to abide by that charter. Professionalism and public service demand nothing less.*
>
> *I welcome frank input and thoughtful debate as I formulate specific policy initiatives. However, once I have made a decision, effective implementation of the chosen strategy requires unity throughout my administration. (Exhibit 20)*

AC Dobson indicated he heard "through the grapevine" (Dobson interview, line 507) that Mayor Wheeler had spoken to AC Lovell after the Bureau issued its 09/10/20 press release. AC Dobson clarified he did not witness this conversation. AC Dobson stated:

> *And so we knew at some point in time that the Mayor had basically - I think it was Lovell at that point in time, [Mayor Wheeler] had basically brought them [Chiefs] in and had a very stern conversation of, you know, I'm in charge. This is my role. I've given you an order, you need to follow it. Not try to do something outside that would make me look bad or undercut what I'm trying to do. (Dobson interview, lines 492-495)*

In a 09/25/20 email to Chief Lovell (Exhibit 21), Mayor Wheeler clarified that PPB could continue to use CS gas, with Mayor Wheeler's authorization under his authority as the Police Commissioner, when there is "an immediate risk of death or serious physical injury which cannot otherwise be safely addressed without a greater application of force." In an 11/30/20 Executive Order dated retroactively to 09/25/20 (Exhibit 22), AC Lovell memorialized Mayor Wheeler's earlier direction regarding the use of CS gas. Then-Chief Lovell wrote that the Bureau could only use CS gas with advanced approval from Mayor Wheeler and only when there is "an immediate risk of death or serious physical injury which cannot otherwise be safely addressed without a greater application of force."

IG Buckley indicated: DOJ contacted her with questions related to the Mayor's 09/10/20 statement banning the use of CS gas for crowd control, after they learned he had issued it. She believes CAO and DOJ staff had contact with Mayor Wheeler regarding his statement. She was not privy to those conversations, but Mayor Wheeler later clarified the Bureau could still use CS gas when there was an immediate life safety risk. She believes Mayor Wheeler issued this clarification as a result of his contact with CAO and DOJ about the issue.

The Mayor's and Police Bureau's dueling press releases suggest there was a disconnect between senior Bureau command staff and the City's elected leaders. At a time when City Council was regularly discussing ways to limit PPB's authority and cut its budget, and when the Mayor/Police Commissioner sought to restrict the Bureau's use of CS gas, the Bureau saw fit to issue a press release extolling the utility and benefits of tear gas, and taking protesters to task for the criminal acts of some protesters. The fact that the Mayor later walked back at least some of his earlier proclamation, reportedly at the behest of DOJ, and clarified that the Bureau could still use CS gas under some circumstances, appears to be further evidence of this disconnect.

<u>RRT's development and use of dynamics suggests limited oversight by senior Bureau command staff</u>

RRT's development and use of so-called "dynamics," sometimes called "double-time," and often referred to as "bullrushes" by community members, is one example of a tactic that could have benefited from clarification by Police Bureau command staff.

RRT's use of the dynamic tactic was created by improvisation during the 2020 protests. IPR interviewed Detective Erik Kammerer on 08/31/22 as a witness member for another paragraph 192 investigation, case #2022-B-0022. During that interview, Detective Kammerer indicated there was no documentation associated with the new tactics RRT developed. Detective Kammerer stated, "Those were all done on the fly." (Kammerer interview, line 460) Detective Kammerer stated:

> *Pretty much they were all tried out contemporaneous to the incident. So, like for the double-time run I just started doing it one night and it was super effective, and so then that kind of became a tactic that we used. (Kammerer interview, lines 464-466)*

As initially employed by RRT, this tactic was essentially a bluff of a threatened use of force, but with no actual use of force. RRT members would run at a crowd of people they were trying to disperse. The crowd, seeing a line of officers running at them, would run away. The officers would then walk quickly after the crowd to keep it moving, thus accomplishing the dispersal.

Eventually some members of the crowds realized this was a bluff. These protesters tended to cease running away from officers, and some even formed shield walls to resist officers. As protesters evolved their tactics, in turn some officers appeared to decide the dynamic was no longer a bluff. These officers began to use force at the conclusion of a dynamic, often pushing or tackling protesters. By contrast, other officers appeared to have decided not to use force at the conclusion of a dynamic. This evolution of tactics on both sides appeared to escalate violent behavior by all involved and took PPB members further from their training related to PPB's force directive.

IPR interviewed Commander Franz Schoening, then a captain, on 09/21/22 as an involved member for case #2022-B-0022. Captain Schoening often worked as an RRT field commander during the 2020 protests. In his interview, he referred to the increased use of dynamics, indicating as the Summer of 2020 wore on, some protesters began using shield walls, and directed more violence against police including paint bombs and mortar style fireworks. Commander Schoening stated:

> *Trying to fight over a wooden shield is a dangerous proposition at best, so they [police] started using more dynamics to try and break that shield wall up and level resistance. So I know a lot of those videos went out on social media as well, or the subject of civil suits. There were certain people that thought it was unprofessional, but it was what we were faced with in the moment, and it was the best option of very limited options for our team and team members. (Schoening interview, lines 581-585)*

Commander Schoening referred to the "psychological impact" (Schoening interview, line 620) of groups of officers running toward protesters, stating, "It accomplishes a lot of that dispersal without having to use physical force at all." (Schoening interview, line 622) He stated, "Over the course of the summer, people figured out that if they just stood there, it was not as effective, if we just stopped in front of them."

(Schoening interview, lines 623-624) Commander Schoening indicated some protesters began changing their own tactics. He stated:

> *They started encountering people walking slowly in the street to impede our movements. We encountered people further back into the crowd throwing explosives and paint bombs at us, having kind of the shield walls. (Schoening interview, lines 625-627)*

Commander Schoening indicated in some cases, RRT officers changed how they conducted dynamics. Commander Schoening stated:

> *There were certainly cases where they continued to move quickly towards the crowd to keep them moving, to prevent them from regrouping and engaging in riotous behavior and arsons and assaults, like they had been previously. When it came to the shield wall or individuals slow walking or, you know, restricting our movements, officers ended up making decisions to use force independent of the dynamic itself. But I think that as people became less and less worried about the dynamic, and did engage in those behaviors more frequently, you saw use of force increase when our officers encountered those people were resistive or aggressive during that dynamic movement. So I'd say that the level of physical force that took place during dynamics increased over the summer as the effectiveness of that tactic diminished. (Schoening interview, lines 629-636)*

Commander Schoening also indicated these tactics were not formally approved by Bureau leadership. Commander Schoening stated:

> *A lot of those tactics were developed at the team level, and again, although there was feedback at times from upstairs, the Chief's Office or the public, I don't know that they ever explicitly approved any tactics that we were using or disapproved of them. (Schoening interview, lines 587-590)*

Asked how RRT went about developing new tactics, during their ongoing responses to protest activity during 2020, Commander Schoening stated:

> *It's challenging. You know, it was a lot of nightly conversations, round-tabling the problem, what are we facing, how are we gonna deal with this, what are the risks, what are they facing, how do we mitigate those risks safely and within policy and all that stuff and the Constitution. All that stuff's important, Constitution, State law, all of that. And people would have ideas, we would round-table those ideas, discuss them and try to come up with a way to implement those tactics. Some were I think probably just spur of the moment. (Schoening interview, lines 598-603)*

During his 07/28/22 interview, IC Berry reviewed the thirteenth bullet point of the June 2021 Memo (Exhibit 23), with Captain Clark. This bullet point discussed RRT developing and implementing new tactics, which were initially approved but later criticized. Asked if the increased use of dynamics was one such tactic, Captain Clark stated, "that's the main one that we discussed. I don't remember if there were other

ones. I mean, I don't remember specifically what they were. I remember the dynamics specifically." (Clark 07/28/22 interview, lines 464-465)

Redacted aptain Clark indicated the team member briefed he and Lieutenant Schoening on the plan, and they approved it and referred it up their chain of command. Captain Clark indicated the plan was approved and implemented. Captain Clark noted the program was "extremely effective" (Clark 07/28/22 interview, line 481) throughout the spring of 2021. Captain Clark stated:

> *There was a lot of frustration in that, you know, we're coming up with tactics, and in that case it was a great tactic that worked really well, and it took months and months for Bureau leadership to actually approve its use, while at the same time we're telling them we have concerns about like the use of dynamics and we're told to just continue to utilize them. (Clark 07/28/22 interview, lines 481-485)*

When asked, Captain Clark confirmed he spoke to Chief's office staff regarding potential negative consequences regarding the increased use of dynamics. Asked how Chief's office staff conveyed their acknowledgment that restricting the use of CS gas would result in higher levels of force, like the increased use of dynamics, Captain Clark stated, "It was all verbal." (Clark 07/28/22 interview, line 531)

It seems apparent that a tactic as widely used as dynamics eventually were during the 2020 protests should have had some official approval mechanism by senior Police Bureau command staff. Instead, the witnesses IPR interviewed indicated senior Police Bureau command staff gave tacit verbal approval for the increased use of dynamics without fully considering or addressing the resulting increase in uses of force by front line officers.

PPB made some efforts to clarify its force policies

This investigation found the Police Bureau made some efforts during 2020 to clarify its policies related to the use and review of force. These efforts included pre-deployment briefings, a training by the Force Inspector about AARs, and trainings provided by City Attorney staff. These efforts are further described below, including the roles senior Bureau staff played.

Efforts to comply with TROs centered on pre-deployment briefings

Over the course of the summer of 2020, multiple temporary restraining orders (TROs) were issued against the Police Bureau. These TROs limited the Bureau's ability to use various kinds of force against protesters, to disperse people identifying as journalists, and to maintain a livestream broadcast of protest activity.

Each of these TROs was legally binding on the Police Bureau. Each TRO required the Police Bureau to make changes to the way it was responding to the 2020 protests. IPR's investigation found the Bureau relied on Incident Management Team (IMT) and Rapid Response Team (RRT) pre-deployment briefings to convey

information about the TROs to officers responding directly to protest activity. In some cases, City Attorney staff provided information to officers regarding compliance with the TROs.

On 06/09/20, US District Court Judge Marco Hernandez issued a TRO which restricted the Bureau's use of CS gas (Exhibit 13). In part, this TRO states:

> *The Court therefore orders that PPB be restricted from using tear gas or its equivalent except as provided by its own rules generally. In addition, tear gas use shall be limited to situations in which the lives or safety of the public or the police are at risk. This includes the lives and safety of those housed at the Justice Center. Tear gas shall not be used to disperse crowds where there is no or little risk of injury.*

At the time of his interview on 02/07/25, Assistant Chief Craig Dobson was the Assistant Chief of Operations. During the 2020 protests, Dobson, then a Captain, was assigned to the Training Division and worked very frequently as a CMIC during 2020. AC Dobson had frequent contact with Chief's Office staff, and he is one of the Bureau's foremost subject matter experts on public order events. AC Dobson also previously served as a Force Inspector from June 2017 through April 2019. During that time he helped develop the Bureau's FDCR.

When interviewed, AC Dobson indicated: Per Directive 635.10, a CMIC has the authority to determine when an event has become a civil disturbance, determine when a crowd should be dispersed, authorize officers to use Riot Control Agents (RCAs) and impact munitions, as well as activate RRT and mass arrest teams. In consultation with others, a CMIC may also determine when an event becomes a riot.

AC Dobson indicated: In order to serve as a CMIC a member must complete all their required ICS-related classes, and also go through a 40-hour training program. During 2018 and 2019, AC Dobson provided this CMIC training. Under former Assistant Chief Ryan Lee (retired 07/02/20), the Bureau developed a draft SOP that called for the Bureau to hire an outside vendor to provide CMIC training.

Asked whether the first TRO issued by Judge Hernandez on 06/09/20 significantly restricted the Bureau's use of CS gas, beyond the expectations described in Directive 635.10, AC Dobson stated, "No, largely based on our practices, it fit right in line with where we were at." (Dobson interview, line 224) AC Dobson indicated the Bureau did not significantly alter it use of CS gas following the first Hernandez TRO, stating:

> *The bar that we had set in practice was we weren't using it unless it was - again it was that, it's your last tool available. And so a situation would always arise to a place where that was the last option that you had. Again, life safety being that piece, and it was fairly easy to explain why we were using that tool, because we were that life safety range. And so largely, it was simply a direction to follow our Directives at that point in time. (Dobson interview, lines 228-233)*

On 06/26/20, Judge Hernandez issued an updated TRO, with additional restrictions the City stipulated to (Exhibit 14). These restrictions included barring the use of 40mm and FN303 less lethal launchers and OC spray against people engaged in passive resistance. The stipulated TRO also restricted the Bureau's use of rubber ball distraction devices (RBDDs) to "situations in which the lives or safety of the public or the police are at risk and shall not be used to disperse crowds where there is no or little risk of injury."

AC Dobson indicated the second stipulated TRO issued by Judge Hernandez significantly altered the Bureau's use of impact munitions. AC Dobsons stated:

> *Again, from policy, policy allowed us to use a little bit less. It was a little less, and we set the bar again at basically that life safety, the same thing we were using for CS gas at that point in time, is where we raised the bar for those other tools as well. (Dobson interview, lines 238-240)*

Asked if he had contact with Chief's Office staff, related to either TRO issued by Judge Hernandez, AC Dobson stated:

> *Multiple contacts with them, as well as the City Attorneys to make sure that we were in compliance with both of those TROs, and so there were emails sent out Bureau wide. I had discussions regularly, both with the City Attorneys, as well as the Chief's Office of how to apply these and make sure that we were in compliance. And that information was pushed out then. Additionally, not only the emails that got sent out, but again, we changed our briefings to ensure that we were including all of that information in the briefings as well, so that everybody each night got the same, again, understanding of that. (Dobson interview, lines 258-263)*

On 07/02/20, US District Court Judge Michael Simon issued a TRO (Exhibit 15) which prohibited PPB officers from using force against or arresting anyone identified as a journalist or legal observer. In part this TRO stated:

> *Defendants and their agents and employees, including but not limited to the Portland Police Bureau and all persons acting under the direction of the Portland Police Bureau (collectively, "the Police"), are enjoined from arresting, threatening to arrest, or using physical force directed against any person whom they know or reasonably should know is a Journalist or Legal Observer (as explained below), unless the Police have probable cause to believe that such individual has committed a crime. For purposes of this Order, such persons shall not be required to disperse following the issuance of an order to disperse, and such persons shall not be subject to arrest for not dispersing following the issuance of an order to disperse. Such persons shall, however, remain bound by all other laws.*

AC Dobson indicated the TRO Judge Simon issued caused concerns for the Bureau. AC Dobson indicated the Bureau was not concerned about journalists, but was concerned about "others that might take

advantage of how it was written" (Dobson interview lines 316-317) and pretend to be journalists while still engaging in disruptive activity. AC Dobson stated:

> *Based on the wording that the judge gave, it left enough wiggle room that that was our concern early on. And within a week and a half, we saw hundreds of people now signifying that they were press. We actually had people on video identifying as a protester readily saying, "I'm not press, but this protects me now." (Dobson interview, lines 1190-1192)*

Oregon Revised Statute (ORS) 181A.250 (Exhibit 16), which was already in effect at the time of the 2020 protests, states:

> *No law enforcement agency, as defined in ORS 181A.010 (Definitions for ORS 181A.010 to 181A.350), may collect or maintain information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct.*

The City had interpreted this statute to mean it could not make video recordings of protests, unless the recordings documented criminal activity. However, PPB had also maintained a livestream feed of protest activity which it broadcast but did not record. The ACLU filed suit against the City to stop the livestreaming practice. On 07/30/20, Multnomah County Circuit Court Judge Stephen Bushong issued a TRO (Exhibit 12) in the lawsuit which enjoined the City from "collecting or maintaining audio or video of protesters" engaged in activity protected by the First Amendment, and effectively ended the City's practice of broadcasting the livestream.

AC Dobson indicated he could not recall or describe specific conversations with Chief Lovell, DC Davis, or AC Resch regarding any of the TROs issued against the Bureau. Describe his contact with Chief's Office staff about TROs, AC Dobson stated:

> *There were multiple conversations, again, largely led by the City Attorney in many cases. They were on by phone, most of them, if I recall right, or a Zoom type call. And then I think there were a couple probably in person as well. (Dobson interview, lines 292-294)*

Asked to describe how the Chief's Office provided information to Bureau members about the various TROs, AC Dobson stated:

> *I would not be able to speak to that. I know, again as we've spoken, there were emails given Bureau wide. At each of the briefings, we would be giving direction. There were times when City Attorney provided direction, you know, specific direction to help the membership understand how to apply those. (Dobson interview, lines 340-342)*

AC Dobson indicated: The IMT held briefings before each night the Bureau responded to protest activity. The briefings were typically held on Zoom, though they were occasionally held in person. Describing how often Chief's Office staff attended the briefings, AC Dobson stated:

> *It would be hard for me to remember, you know, how many times they went. Early on, they were very active. As it became more of a wash and repeat, I had contact with them every day prior to the briefing usually. Just talking about the night before, the day of, what the plan was, any direction from the Mayor's Office that they might've received or feedback from them, was usually a daily call. And then oftentimes they would be on Zoom after that for the briefing itself. (Dobson interview, lines 368-372)*

Efforts to improve the Bureau's force investigation procedures centered on trainings

During 2020, as problems with the Bureau's FDCR and AAR processes emerged, within the Chief's office AC Resch took the lead in addressing the issue. She added additional staff to review FDCRs and conduct AARs, and she directed that the Bureau provide additional training on FDCRs and AARs.

Mary Claire Buckley is the Police Bureau's Inspector General. She leads the Bureau's Office of the Inspector General (OIG). IG Buckley has served in that role for over 11 years. The OIG is responsible for ensuring the Bureau appropriately investigates the force used by Bureau officers. IG Buckley supervises the Bureau's Force Inspector and analyst team.

After OIG staff became aware of problems with the Bureau's FDCR and AAR processes, IG Buckley made the Chief's Office aware of the issue. Within the Chief's Office, AC Resch took the lead in directing the Bureau's response to the problem. AC Resch directed that additional personnel be assigned to conduct and review AARs. AC Resch also directed that crowd control supervisors receive additional training related to completing FDCRs and AARs correctly.

IG Buckley indicated Commander Simon held a training for RRT supervisors regarding how members should enter information into FDCRs. IG Buckley stated, "I think he recognized, you know, the need." (Buckley interview, line 398) IG Buckley stated:

> *And so he [Simon] did that, which I think was, you know, straightforward and was very helpful. So, yeah, I think that was, you know, pretty clear. Because, you know, we don't, you know, in my experience, the Bureau doesn't use force that often. So, I mean, you know, everybody thinks all these sergeants are proficient. There are clearly sergeants that are much more proficient than others. (Buckley interview, lines 382-385)*

At the time of his interview on 02/27/25, Commander Robert Simon was the Commander of the Police Bureau's North Precinct. He was the Bureau's Force Inspector from 06/25/20 through 08/19/20, a span that encompassed much of the 2020 protest activity in Portland. Commander Simon indicated he spoke to AC Resch about AARs and FDCRs, sometime after he spoke to IG Buckley about them. Commander

Simon indicated he described the issues he was encountering. Commander Simon stated AC Resch said something like, "Well, we need to teach our people how to do it more complete." (Simon interview, lines 189-190) Commander Simon indicated AC Resch directed him to put a training together, for RRT supervisors.

During this investigation, IPR reviewed an email AC Resch sent IG Buckley on 07/14/20 (Exhibit 5). In the 07/14/20 email, AC Resch described the actions she directed be taken to address problems with the AAR process. These steps included assigning a group of sergeants to review FDCRs and conduct AARs for RRT squads, assigning a lieutenant to review the AARs the sergeants completed, and identifying additional lieutenants and captains to complete the review of the AARs. AC Resch also noted the force inspector at the time, Commander Simon, had provided a training to address problems he identified. (Exhibit 5, throughout)

During this investigation, IPR also reviewed a summary of the steps the Bureau took to address the delayed AARs, as well as problems the Bureau encountered that AC Resch provided to IG Buckley in September 2020 (Exhibit 10). In the summary, AC Resch described the actions she directed, including assigning additional sergeants to review FDCRs and conduct AARs, assigning a lieutenant to review them, and identifying additional command staff to complete the review. (Exhibit 10, throughout)

City Attorney staff provided force trainings after the City was found to be in contempt of TROs

After Judge Hernandez found the City in contempt for violating his TROs, CAO staff developed and provided additional trainings to Bureau members regarding the appropriate thresholds for using particular types of force. CAO staff prepared a so-called "paragraph 4" training for the entire Police Bureau, related to appropriate uses of force. CAO staff also prepared a so-called "paragraph 5" training for all Police Bureau grenadiers. These designations correspond to specific paragraphs from Judge Hernandez's ruling.

CAO staff prepared a PowerPoint presentation for both the paragraph 4 training and the paragraph 5 trainings. Both presentations address authorized uses of force under Directive 1010.00, and include detailed descriptions of what constitute passive resistance, physical resistance, and active aggression. These presentations include a detailed chronology and description of the various court-related limitations placed on PPB's use of force during the George Floyd related protests. The presentations include video clips of specific force incidents Judge Hernandez ruled on. The presentations also include descriptions of inappropriate justifications of uses of force from FDCRs completed by PPB officers during the 2020 protests. The presentations include very detailed information regarding specific instances when officers may use specific types of force.

At IPR's request, CAO staff provided unredacted copies of the paragraph 4 and paragraph 5 trainings to IPR for this investigation. CAO staff advised IPR they consider much of this material to be attorney-client privileged and cautioned IPR not to release it to third parties. Because this material is not redacted, IPR did not list any of it as exhibits for this investigation. All of the CAO training material IPR reviewed is available in this investigation case file.

As part of its paragraph 192 investigations, IPR investigated the crowd control training the Police Bureau provided to its members under case #2022-B-0022. During that investigation, IPR questioned witness members about the paragraph 4 and 5 trainings they received. Multiple witness members indicated the information they received in these trainings, particularly related to the thresholds for passive resistance, physical resistance, and active aggression, greatly varied from their previous understanding. Multiple witness members indicated they were surprised CAO staff's interpretation of these thresholds varied so greatly from their own. For further details refer to case #2022-B-0022.

Witnesses indicated DC Davis played an important role in managing Bureau's response to 2020 protests

Witnesses IPR interviewed for this investigation indicated DC Davis played an important role in managing the Bureau's response to the 2020 protests. However, witnesses also indicated it was difficult to identify the specific responsibilities of Chief's office staff, and other City entities like CAO were often involved in helping the Bureau manage the response to the 2020 protests, often with input from DOJ.

Asked who in the Chief's office he typically spoke to regarding the Bureau's response to protest activity, Captain Clark stated:

> *At the time Deputy Chief Davis was - I don't know his official assignment, but he appeared to be the person in the Chief's Office kind of directly in control of the demonstration responses. So, he was involved in just about all the discussions around the demonstrations that I was a part of I think. Yeah, but I don't know how that was like delineated in the Chief's Office. (Clark 07/28/22 interview, lines 509-512)*

Asked what he thought DC Davis' responsibilities were, related to the 2020 protests, Commander Simon stated:

> *I mean, he's Deputy Chief of the Police Bureau, so he'd have overall direction of the day-to-day operations of the Police Bureau. But I don't know what the interaction between AC Resch, DC Davis, and Chief Lovell, I don't, it's above my pay grade. (Simon interview, lines 238-240)*

Asked if DC Davis appeared to be the person in the Chief's Office who was primarily responsible for overseeing the Bureau's response to the 2020 protests, AC Dobson stated, "I would say that's largely accurate. He was the person I dealt with almost every night." (Dobson interview, line 1108)

AC Dobson indicated he frequently met with DC Davis during the 2020 protests, and they likely discussed the delayed AARs. AC Dobson stated, "I'm sure there was some conversation along the way." (Dobson interview, line 731) Asked if DC Davis directed any actions be taken, related to the AARs, IG Buckley stated, "I don't have any recollection of anything specific that he did." (Buckley interview, line 272) Commander Simon indicated he does not remember ever speaking to DC Davis about the delayed AARs. Commander Simon indicated he does not remember DC Davis ever ordering him to take any action regarding the delayed AARs.

Asked if DC Davis ever spoke to him about the issue of passive resistance versus active resistance, AC Dobson stated, "I'm sure we had that conversation, as one of many conversations - attached to the City Attorney's Office." (Dobson interview, lines 1120-1122)

Captain Clark indicated: He remembered near the beginning of the 2020 protests, DC Davis presided over a meeting that included Bureau command staff, Mayor Wheeler, the US Attorney, and Multnomah County District Attorney Mike Schmidt. The meeting concerned the ongoing protest activity. Captain Clark stated:

> *With, like, all of the players in the room, that was Chris Davis who laid out this plan that to stop it, we're just gonna arrest everybody for everything as early as we possibly can. And if they step on the street we're gonna arrest them, and that's how we're gonna solve it. And Dobson and I were, like, "That's a terrible idea." Early on in the event, that's just, like, the normal demonstrators. If you do that, it's gonna make it way worse. But Davis was not bending on his plan, and that's just the way it's gonna be. Thankfully, Dobson was able to maneuver during the events and prevent us from implementing that plan. (Clark 08/15/24 interview, lines 786-794)*

Asked to describe the quality of communication and contact between RRT and MFF squads and Chief's office staff, Captain Clark stated:

> *Extremely poor. Yeah, and what, when we did talk, it was usually disagreement about tactics or kind of operational planning that the chiefs had come up with. And it was almost exclusively Davis who was coming up with all of those plans. So, that was extremely frustrating, like, fencing the parks. Like, this is a terrible idea. (Clark 08/15/24 interview, lines 259-261)*

Captain Clark stated:

> *We didn't know then, but Davis was trying to get another job. And so he was - he kind of put himself in charge of all of it. So, he would be the one talking with the ICs in the evenings, is my understanding. And he came up with ideas on his own, and we were left to deal with them. (Clark 08/15/24 interview, lines 800-803)*

Asked to respond to the idea other witnesses IPR interviewed had suggested, that at the time of the 2020 protests, DC Davis was primarily interested in getting a Chief's job at a different agency, AC Dobson stated:

> *He [Davis] did eventually move on. He was fully engaged every night that I spoke with him, and there did not seem to be any distraction whatever that would have precluded him from not - or making a bad decision or giving us bad advice. He seemed completely engaged with me. (Dobson interview, lines 1147-1149)*

Deputy Chief Davis not interviewed for this investigation

Christopher Davis started working for the Police Bureau in 1998 and he worked there over 22 years. He served as PPB's Deputy Chief from 12/31/19 until 09/02/21, when he retired from PPB. He is currently the

Chief of Police for the Green Bay, Wisconsin Police Department. As PPB's Deputy Chief, Davis was responsible for overseeing the Bureau's day-to-day operations, and multiple witness indicated he played a large role in directing the Bureau's response to the 2020 protests. IPR identified DC Davis as an involved member for this investigation in December 2024.

On 01/09/25, IPR Investigations Coordinator Eric Berry sent a letter to DC Davis, advising DC Davis he had been identified as an involved member for this investigation and requesting an interview. On 01/22/25, DC Davis sent IC Berry an email, acknowledging receipt of IPR's interview request. In his 01/22/25 email, DC Davis asked several questions about the investigation and expressed concern about the manner and timing of IPR notifying him that he was an involved member. (Exhibit 29, throughout)

On 01/24/25, IC Berry replied to DC Davis. In his email, IC Berry answered DC Davis' questions and asked him for a decision regarding the interview. DC Davis replied to IC Berry the same day. In his reply, DC Davis asked additional questions and expressed concern that IPR had listed him as an involved member even though he no longer worked for the Police Bureau. (Exhibit 29, throughout)

On 01/27/25, IC Berry replied to DC Davis. In his email, IC Berry answered DC Davis' additional questions and again asked him to decide about the interview.

On 01/29/25, DC Davis replied to IC Berry. DC Davis indicated he would grant IPR a voluntary interview, if IPR provided him with "copies of investigative materials developed up to this point, in particular all interview transcripts, the chronological record, and anything else IPR relied upon to form the allegations." (Exhibit 29, throughout)

DC Davis also wrote:

> *Since this is a voluntary rather than a compelled interview, and I am thus deprived of the Garrity protection I would have been afforded had IPR conducted its inquiry while I was still employed by the City of Portland, I will require written guarantees of immunity from both the US Department of Justice and the Multnomah County District Attorney's Office. (Exhibit 29)*

On 01/31/25, IC Berry replied to DC Davis. IC Berry advised DC Davis IPR would not turn over its investigative materials to him prior to the interview, as this was not an ordinary practice for IPR or IA investigators. IC Berry also advised DC Davis he could not provide him with written guarantees of immunity from DOJ or MCDA. IC Berry advised DC Davis IPR would complete its investigation regardless of whether DC Davis granted an interview to IPR. IC Berry again requested to interview DC Davis and asked for his final decision by 02/10/25. (Exhibit 29, throughout)

DC Davis did not further reply to IC Berry, before or after 02/10/25. IPR interpreted this as DC Davis declining to be interviewed for this investigation. Former DC Davis retired from PPB on 09/02/21, and IPR does not have the authority to compel former PPB members to be interviewed.

On 02/26/25, attorney Dan Thenell contacted City Attorney staff and advised them he was now representing DC Davis. Mr. Thenell did not address or further respond to IPR's interview request.

Assistant Chief Resch not interviewed for this investigation

IPR briefly interviewed AC Resch on her last day of employment with PPB, 01/13/23, as a witness member for this investigation. During the interview, it quickly became apparent AC Resch played a significant role in managing the Bureau's response to the 2020 protests, including overseeing RRT and reviewing AARs associated with team members' uses of force. IPR temporarily halted the interview and advised AC Resch it would identify her as an involved member for case #2022-B-0025. IPR then gave AC Resch time to confer with her attorney, Nicole Robbins.

Ms. Robbins, objected to continuing the interview, arguing that AC Resch had not been given sufficient time to prepare to be interviewed as an involved member. IPR agreed to end the interview, provided AC Resch would agree to sit for a voluntary interview in the future. AC Resch agreed to be interviewed on a voluntary basis in the future, and IPR ended the interview.

IPR contacted Ms. Robbins on 12/06/24, in order to arrange AC Resch's interview as an involved member for IPR cases #2022-B-0024 and #2022-B-0025. Ms. Robbins did not respond to IPR. Since it was not clear whether Ms. Robbins still represented AC Resch, IPR contacted AC Resch directly on 01/09/25. AC Resch acknowledged IPR's contact, and indicated she or her attorney would soon reply. Ms. Robbins eventually responded to IPR on 01/31/25 and indicated she represented AC Resch. Ms. Robbins indicated AC Resch was no longer willing to be interviewed on a voluntary basis.

IPR does not have the authority to compel former PPB members to be interviewed. Because AC Resch retracted her earlier commitment to sit for a voluntary interview, IPR was unable to interview her as an involved member for this investigation.

Summary of interview with Assistant Chief Lovell

At the time of his interview on 02/27/25, AC Lovell was the Assistant Chief of the Services Branch. AC Lovell has worked for PPB for 23 years. He served as PPB's Chief of Police from 06/11/20 to 10/11/23. He was a lieutenant, serving as the Acting Captain of the Community Services Division, when he became Chief. He became chief less than two weeks after protests began in Portland in 2020.

AC Lovell indicated he believes he was out of town when protests related to the murder of Mr. Floyd began in Portland. AC Lovell indicated when he returned, he began to frequently attend community meetings along with then-Chief Resch. AC Lovell stated:

> *I have a lot of relationships in the community, and in the African American community in particular. So we would have a lot of meetings with folks and just being out talking to people. We'd spend time out at the fence talking to people. We had some meetings with people we talked to at the fence that we brought in to actually meet with. And I think, you know, probably the last week before she stepped down, we – I was with her pretty much full-time doing that type of stuff. (Lovell interview, lines 153-157)*

AC Lovell confirmed AC Resch suggested he replace her as Chief. AC Lovell stated, "When she [Resch] stepped down, initially she became the Captain of the Community Services Division. So we essentially swapped jobs." (Lovell interview, lines 93-94) AC Resch was later promoted to the Assistant Chief of the Investigations Branch. AC Lovell indicated at that time, RRT was part of the Investigations Branch.

AC Lovell indicated: There was also some turnover among Bureau command staff during the protests. When the protests began, Ryan Lee was the Assistant Chief of the Services branch. AC Lee left PPB in July 2020 to work at another agency. AC Resch had previously selected Michael Krantz to replace AC Lee, and Krantz became an assistant chief after AC Lee left. Shortly after that, AC Krantz also left the Bureau to work at another agency.

AC Lovell indicated when he was chief, his duties consisted of higher-level responsibilities. AC Lovell stated:

> *It's more the higher-level stuff. A lot of it is, you know, the city level government stuff. You know, currently, a lot of it would be the community stuff. At that time [2020], a lot of it was, you know, dealing with city council, dealing with budget cuts, trying to deal with mutual aid, trying to get support. A lot of things were happening not only in Portland, but in Salem, too. There were a lot of legislative efforts underway related to gas, related to what was happening in Portland. Some of it was with our partners who were coming to help, trying to, you know, arrange that. (Lovell interview, lines 997-1002)*

AC Lovell confirmed Chris Davis served as his Deputy Chief during the 2020 protests. Describing the role of each position when he was chief, AC Lovell stated:

> *We had kind of two roles for the Chief and the Deputy Chief. So the Deputy Chief ran the day-to-day kind of operations. And the Chief was more focused on the political side, community, and some of the more, you know, legislative type things. And that was how Chief [Danielle] Outlaw set it up when she created the Deputy Chief spot. And we maintained that kind of setup. (Lovell interview, lines 100-103)*

AC Lovell indicated generally, in the Chief's office, assistant chiefs are responsible for managing broad aspects of the Bureau, and they provide high-level briefings to the chief. AC Lovell stated, "Or they say, 'Hey, this is an issue. I wanna do this. What do you think?' Or they're like, 'Hey, there's this problem. We've come up with this solution. We'd like to implement it.' That kind of thing." (Lovell interview, lines 428-429)

AC Lovell indicated DC Davis oversaw the Assistant Chiefs of the Investigations and Operations branches of PPB. AC Lovell stated, "So the RRT crowd management team was overseen by him essentially. He had more contact with them than I did." (Lovell interview, lines 115-117)

Describing what steps he took to ensure the Bureau complied with the multiple TROs that were issued during 2020, AC Lovell stated:

> *We had a lot of discussion with the City Attorney's Office to get interpretation of these, what they'd mean for our response on the street. And then we'd implement those through the IMT and make sure people knew that they were in effect, what we could do, what we couldn't do. (Lovell interview, lines 441-443)*

Describing how the Bureau would consult with City Attorney staff, AC Lovell stated:

> *We would just call them or we'd have meetings. There were a lot of conversations happening at this point too, back and forth, I think between IMT command folks, city attorney command folks, the Police Bureau and city attorney's office. And we'd have Zoom meetings, phone calls, things of that nature too. (Lovell interview, lines 447-449)*

AC Lovell indicated the IMT held briefings before RRT deployed each night and they discussed TROs during those briefings. AC Lovell indicated City Attorney staff typically attended the briefings.

Asked if he gave any orders related to complying with the TROs, AC Lovell stated, “Just that we were to comply with the TROs. They're pretty - it's pretty straightforward in that respect.” (Lovell interview, line 460) AC Lovell indicated he did not know if he had direct contact with Office of the Inspector General staff about the TROs, but he believes OIG staff were likely involved in some conversations about the TROs. AC Lovell stated he had contact with RRT about the TROs “through the IMT.” (Lovell interview, line 465)

Asked if he had a role in developing the training material the Bureau provided to crowd control officers regarding the TROs issued by Judge Hernandez, after he found the City in contempt. AC Lovell stated, “No. I remember us saying, "Okay, we need to do them," and putting them on and making sure people went to them. But as far as like the input or selecting the videos or the verbiage, no.” (Lovell interview, lines 530-531) AC Lovell indicated as chief, he does not have a direct role in developing or conducting training. AC Lovell stated, “It could be something like, hey, we need to have a training on this, and I would direct the training division to create it or someone to create it, depending on what it was.” (Lovell interview, lines 536-537) AC Lovell indicated after the training material was developed, he would approve it, stating, “there's probably like a sign-off process where I would sign it.” (Lovell interview, line 543)

Asked if he took any steps to evaluate the effectiveness of the TRO related trainings, after they were conducted, AC Lovell stated, “No, I don't think so.” (Lovell interview, line 543) Asked if he was aware many long-standing RRT officers indicated they were surprised by the city attorney's determinations of what constituted passive resistance or physical resistance or active aggression, AC Lovell stated:

> *No, I think at the time there was a lot of discussion about the interpretation of just the TROs in general. Were they being interpreted, you know, conservatively or, you know, some people I think felt they had a different interpretation. (Lovell interview, lines 552-555)*

AC Lovell could not describe when or how he first became aware that there was a substantial backlog of reports going through the transcription process by the Bureau’s Records unit, or who he spoke to about the issue. AC Lovell stated, “I can't say when I learned about it, but I did know about it at some point.”

(Lovell interview, line 381) AC Lovell indicated a delay in reports going through the transcription process could potentially affect other things, like the AAR process or a prosecutor's charging decision.

AC Lovell indicated: He did not remember if he knew at the time that Records unit staff did not have sufficient equipment to work remotely, but he believes they were eventually issued it. He did not remember if he knew at the time that the Bureau's Records unit was only able to staff one shift per day during the summer of 2020, instead of the usual two shifts per day. Asked whether he made the decision to move the Records unit to another location, AC Lovell stated:

> *I think it's something we talked about and I was okay with. There was - a lot of times for me people would say, "Hey, this is what we need to do," 'cause I don't oversee them directly. And it would come to me through one of the ACs or the DC, and I would approve it. (Lovell interview, lines 416-421)*

AC Lovell indicated it was difficult to describe specific orders he gave or the specific dates he took actions because of the time elapsed between the summer of 2020 and his interview on 02/27/25.

AC Lovell indicated he received a telephone call from Kristin Dennis, Mayor Wheeler's Chief of Staff, shortly before the Mayor issued his 09/10/20 statement, directing the Bureau to end the use of CS gas for crowd control (Exhibit 18). AC Lovell stated, "She [Dennis] said, essentially, 'The boss is gonna do something. You're not gonna like it, but effective immediately, he's banning the use of gas.'" (Lovell interview, lines 596-597) AC Lovell stated he was "upset" (Lovell interview, line 599) when he heard this news. AC Lovell stated:

> *But I was also more concerned about the safety of the folks I had to send out there in a few hours. I mean, we use it [CS gas] as a tool to disperse large crowds. We're many nights out there with, you know, a few dozen RRT folks, a few squads, and they're facing big crowds, sometimes violent crowds. And the tools to disperse them, you know, the most effective tool was gas. And he [Wheeler] did not have a conversation with me about it, which I think to me was the toughest part. If he had come to me and said, "Hey, Chief Lovell, I'm getting a lot of pressure, I need to do this. You know, what tools do we have to keep our people safe, our buildings safe? What's this gonna, you know, mean for the safety of our people and the safety of the city?" And we had that conversation and he came to that decision, then I would've, you know, it would have been okay. But to not have that conversation, to have her call me, and then I've gotta send tired, kinda already kinda demoralized folks out there in a few hours with this information just did not feel right to me. (Lovell interview, lines 601-610)*

When asked, AC Lovell confirmed he authorized the 09/10/20 Police Bureau press release, issued in response to Mayor Wheeler's statement ending the use of CS gas for crowd control (Exhibit 19). AC Lovell stated:

> *I had a conversation with the PIO at the time, maybe one other person, but - about how we were gonna respond to this and what, you know, essentially this would mean. And for me, I knew this was gonna be problematic for me. Like, this could get me fired immediately*

> *kind of thing. At the end of the day, I was like, you know what? I feel that this, you know, is the - a hill to die on, so to speak. Like, if it comes down to the safety of the people I have to put out there every night, and that's being compromised for whatever, political reasons or what have you, then that's something I'm willing to, you know, to go to bat for my folks for. So we ended up sending it out. And he [Wheeler] was not pleased with that. (Lovell interview, lines 623-629)*

Asked if the Bureau's press release characterized its use of CS gas differently than the Mayor's statement did, AC Lovell stated, "I don't know. I'd have to read that specifically to say that. But I don't know. I think we tried to describe it, how we're using it as a tool, and he may have had a different opinion about it." (Lovell interview, lines 635-636) AC Lovell further stated:

> *I think when you say crowd control, like, we engage in crowd control or crowd management frequently without use of any tools. We were doing it, you know, for months, you know, during the day with very little even interaction with these crowds. It was used in response to dispersing violent crowds that were engaged in, you know, behavior that warranted its use. To me, that's more of like a semantics thing, like crowd control versus dispersing people that were rioting or, you know, intending to do some type of harm or criminal acts to people. (Lovell interview, lines 647-652)*

Asked if he could think of another instance of the Police Bureau issuing a press release that did not align with a directive issued by the Mayor, AC Lovell stated, "Yeah, I can't think of a time." (Lovell interview, line 656) When asked, AC Lovell indicated he did not notify the Mayor before he authorized the Bureau's press release. AC Lovell indicated he spoke to Mayor Wheeler after the Bureau issued the press release. AC Lovell stated:

> *We had a conversation. He [Wheeler] was not happy. He felt that it was insubordinate in terms of we were not gonna do it and we were still gonna - and I was like, "No, we're gonna follow your orders. You're the Police Commissioner." But at the same time, you know, I think, you know, for me as the Chief to have a voice, it's important that I support my folks in the need for these tools to keep them safe. And we had a lengthy discussion about, you know, his [Wheeler's] role, my role. And I told him, you know, "Honestly, like, for me, I put the safety of people out there every night paramount. And if something's gonna compromise that, I don't have a problem speaking up on it." It was in no way, shape, or form to say the Police Bureau is not gonna do as we've been ordered. But it was just voicing my opinion on the need for this tool. (Lovell interview, lines 663-670)*

AC Lovell indicated he was familiar with Mayor Wheeler's undated email to Chief's Office staff (Exhibit 20), stating, "I think this came to all of us." (Lovell interview, line 710) Asked if he took any action related to the email, after he received it, AC Lovell stated, "I think we as a group had conversation, but it was pretty clear. And like I said, the - our intent - the intent of the press release was never to insinuate that we weren't going to do whatever. It was really just to support the troops, their safety, and the use of that tool." (Lovell interview, lines 713-715)

AC Lovell confirmed both Mayor Wheeler's 09/25/20 email to AC Lovell, clarifying the circumstances under which PPB could use CS gas (Exhibit 21), and AC Lovell's 11/30/20 executive order (Exhibit 22), formalizing the guidance in Mayor Wheeler's 09/25/20 email, clarified that CS gas may be used when there was an immediate risk of death or serious physical injury that could not otherwise be addressed. AC Lovell indicated the Bureau implemented Mayor Wheeler's direction after he received the Mayor's 09/25/20 email. AC Lovell indicated City Attorney staff later realized that he had never issued an executive order formalizing the Mayor's direction, so he issued the 11/30/20 executive order.

Asked if he agreed with the critical assessment's eight recommendation (Exhibit 24), that PPB policy should require chiefs to be engaged with and visible to officers in the field during public order deployments when possible, AC Lovell stated:

> *Generally speaking, yes, but it's a very nuanced thing. And I struggled with this when I first became chief. I would spend time in the command post. But I didn't want the IMT folks to feel like I was looking over their shoulder or trying to meddle in their decision-making. To be out in the field, you're really a flashpoint to some degree too. (Lovell interview, lines 759-762)*

AC Lovell further stated:

> *I think in terms of support for the troops, I think it would have been beneficial for me to be there more just for that reason, so they could see that I was there and be supportive. But it's a weird thing to be there as the chief, but not as the decision maker. And then when things happen, people look to you like, well, why are we going left and not right? Why are we, you know, arresting these people or not arresting? (Lovell interview, lines 763-767)*

Asked if he directed his deputy chief or his assistant chiefs to spend time in the field as the Bureau responded to protest activity, AC Lovell stated:

> *That's something we've talked about. I don't know if I directed him [Davis] to go out and do that per se, but I think he tried to do that when he could. I won't speak for him per se, but I know Chief Resch did go out in the evenings and do some of that. (Lovell interview, lines 785-787)*

AC Lovell indicated Chief's office staff attended pre-deployment briefings on a regular basis. AC Lovell stated:

> *There would almost always be a Chief's office person there. And we - a lot of those were over Zoom at the time. We'd moved from this building to the training division. And there'd be people there physically, but the briefings would be kind of hybrid. So there'd be a Zoom option. Some people would be staged at other places and couldn't be at the actual physical location at the training division, so they would Zoom in. And, you know, at the end of every briefing, they'd say, "Anything from the Chief's office?" You know, if we had something to share, we would. But I think that was pretty regular where there'd be a Chief's office person at the briefing. (Lovell interview, lines 785-787)*

AC Lovell indicated during the 2020 protests, CMICs typically sent an email to Bureau command staff at the end of each night of operations, describing the event. AC Lovell indicated he and DC Davis both spoke to CMICs at the end of an evening's operation on a fairly regular basis. AC Lovell stated:

> *I would talk to Dobson frequently after the ones he ran. I would say DC Davis probably did more of the check-in after. Like, some of these would end at 2, 3 in the morning also. So it's hard to do that. But I'd say the following morning, I would have frequent conversations with Dobson. And I know DC Davis did as well. (Lovell interview, lines 816-818)*

Asked to respond to a concern raised in Captain Clark's 06/17/21 RRT resignation memo (Exhibit 23), that the team felt there was a significant lack of leadership from the Chief's office, City Hall, local political leaders, and the district attorney's office, AC Lovell stated:

> *In terms of leadership as like visibility, I would say that that's probably fair given, you know, their other statements. But I feel like, honestly, there was a lot of leadership that we provided. If you put yourself back in that time and the context, you know, and me just personally, you're drinking from a fire hose. You go from essentially being a lieutenant one day to the chief the next in the throes of all this, and you're just trying to figure it all out. And there's a lot of things that were happening that I think the team, you know, was operating in this nightly, you know, struggle on the streets. (Lovell interview, lines 850-855)*

AC Lovell further stated:

> *But there's a lot of other fights that the chief and chief's office are fighting with the mayor's office, with the legislature, with community, with all these other people trying to get support. You know, you're digesting a $27 million budget hit, you know, three weeks into, you know, me taking over and figuring out if we're gonna lay people off. And there's a lot of angst, I think, at this time, too. And I think, you know, when people are upset, they look like, well, you're the boss, you should be making this better somehow. And it was a constant battle over here to try to get us to support the mutual aid, all these other things. And then you have just the angst of the time, too. And I think that was weighing on people. And I think they probably felt like, you know, the Chief's office is not doing enough to make this stop or get better somehow. (Lovell interview, lines 855-862)*

Asked if he took part in selecting any of the CMICs that served in that role in 2020, AC Lovell stated, "I don't think I selected them personally. We would select people, but typically it'd be AC of ops or the DC. And they'd assign them to either a CIC role or a CMIC role." (Lovell interview, lines 475-476)

AC Lovell indicated during 2020, several long-standing CMICs retired, or went to work for other agencies. AC Lovell indicated this affected how often remaining Bureau staff had to work as CMICs. AC Lovell stated:

> *I know we leaned on some people pretty heavily. I know Dobson ran a lot of them himself. We used a few people. We did have people leave. And I think we were actually planning*

> *to have a training, but then COVID derailed that training. So we weren't able to get replacements, you know, as soon as we would have liked also. And I think one of the things from the IMLCC report was, you know, we didn't have enough CMICs for what we faced. And it's like, well, if we would have known we'd face 170 straight nights of running an IMT, you know, we would have tried to have more. But we only have so many captains and commanders, and they still have this other job of running precincts and doing the day-to-day police work. So that's a hard one. (Lovell interview, lines 494-502)*

Asked to respond to the allegation he failed to adequately clarify misunderstandings and misapplications of PPB policy governing the use, reporting, and review of force, AC Lovell stated:

> *To the extent that I, you know, responsible for people's misinterpretations of any policy, to me it's like, that's, I don't know. I feel like that is something that is difficult to put on someone who is outside of that kind of IMT structure too. There - someone's interpretation of any policy we have right now could, you know, play out on the street in some way. I don't necessarily think it's because I didn't clarify to them, you know, an interpretation of what that policy is. Officers get a lot of policies and a lot of directives and direction, and they're responsible for interpreting those or seeking interpretations from supervisors or city attorney or whoever, and then going out making decisions based on their knowledge of those policies. But to the extent that that is the responsibility of, you know, someone several, many, many, many levels removed, I don't necessarily think that that's that appropriate. (Lovell interview, lines 923-931)*

Investigator Comments and Recommended Findings:

Allegation 1: Former Deputy Chief Christopher Davis #36611 failed to adequately clarify misunderstandings and misapplications of PPB policy governing the use, reporting, and review of force during crowd control events starting on May 29, 2020, and ending on November 16, 2020 (PROCEDURE) (Directive 315.30 – Satisfactory Performance; Directive 635.10 – Crowd Management/Crowd Control; Directive 1010.00 – Use of Force)

Recommended Finding: Sustained

Allegation 2: Former Assistant Chief Jami Resch #37142 failed to adequately clarify misunderstandings and misapplications of PPB policy governing the use, reporting, and review of force during crowd control events starting on May 29, 2020, and ending on November 16, 2020 (PROCEDURE) (Directive 315.30 – Satisfactory Performance; Directive 635.10 – Crowd Management/Crowd Control; Directive 1010.00 – Use of Force)

Recommended Finding: Not Sustained

Allegation 3: Assistant Chief Charles Lovell #41706 failed to adequately clarify misunderstandings and misapplications of PPB policy governing the use, reporting, and review of force during crowd control events starting on May 29, 2020, and ending on November 16, 2020 (PROCEDURE) (Directive 315.30 –

Satisfactory Performance; Directive 635.10 – Crowd Management/Crowd Control; Directive 1010.00 – Use of Force)

Recommended Finding: Sustained

Case #2022-B-0025 addresses senior Police Bureau command staff's efforts to clarify its force policies to members. The purpose of this investigation was to determine whether senior command staff made sufficient efforts to timely and adequately clarify Bureau policies related to the use and investigation of force.

While much of paragraph 192 is written in a conclusory manner, it does not define or describe what actions or directions by senior command staff would constitute an adequate level of clarification. During this investigation, IPR was able to identify multiple actions senior command staff took, and did not take, to clarify its force related policies. However, the lack of a clear definition or description in paragraph 192 or PPB Directive added to the difficulty of making the following recommended findings.

IPR identified former Deputy Chief Chris Davis #36611, former Assistant Chief Jami Resch #37142, and Assistant Chief Charles Lovell #41706 as involved members for this investigation. DC Davis oversaw the Bureau's day-to-day operations, and he played a large role in directing the Bureau's response to the 2020 protests. AC Resch played an important role in trying to ensure the Bureau completed FDCRs and AARs as required during 2020. AC Lovell served as PPB's Chief from 06/11/20 until 10/11/23, a span of time that includes the majority of protest activity during 2020. As Chief, he was in charge of the Police Bureau and oversaw the work of DC Davis and the assistant chiefs.

AC Lovell still works for the Police Bureau, and IPR was able to interview him as an involved member for this investigation without incident. AC Resch retracted her earlier commitment to be interviewed on a voluntary basis after she left PPB service. DC Davis declined to be interviewed on a voluntary basis after IPR told him it would not release this investigation's case file to him before the interview or provide him with written guarantees of immunity from DOJ and MCDA.

IPR identified several instances when senior command staff appeared to have failed to timely and adequately clarify Bureau policies related to the use and investigation of force. These instances include their efforts to ensure the Bureau complied with multiple TROs issued against them; their efforts to ensure members complied with expectations regarding the use, reporting, and investigation of force described in applicable Directive and the Settlement Agreement; their efforts to address the records backlog; and their efforts to provide visible leadership to the Bureau during the 2020 protests.

IPR also identified instances of senior command staff failing to appropriately prioritize issues related to the Bureau's use of force or focusing on other issues to the detriment of the Bureau's ability to respond to the protests of 2020. These instances include senior command staff's efforts to ensure they had an adequate cadre of CMICs; their efforts to improve the accuracy of ICS records; their failure to adequately clarify the appropriate use of the dynamic; and DC Davis' reported insistence the Bureau maintain a large, fenced off area in downtown Portland against the advice of the Bureau's own crowd control experts.

Regarding the TROs, all witnesses IPR interviewed agreed the Bureau relied on pre-deployment briefings to provide information about them to crowd control officers. Witnesses also agree Chief's office staff regularly attended these briefings, although AC Dobson indicated their attendance waned as the summer progressed and the protests continued. TROs continued to be issued against the Bureau over the course of the summer of 2020, and Judge Hernandez eventually found the Bureau to be in contempt of the second TRO he issued. This strongly suggests relying on these briefings to clarify the expectations of the TROs was not effective or successful. Also, numerous members that IPR interviewed expressed surprise about the line between appropriate and inappropriate uses of force, as described in the paragraph 4 and 5 trainings provided to them by City Attorney staff. This seems to have been the first training during the 2020 protests to address this subject specifically and it was not self-initiated but rather forced on the Bureau by a Judge's ruling. The Police Bureau likely would have benefitted from more direct and urgent clarification, from senior command staff, about the expectations of the TROs that were issued against it in 2020.

Regarding the issue of officers complying with expectations regarding the reporting, and review of force described in applicable Directive and the Settlement Agreement, witnesses IPR interviewed and documentation it reviewed indicate the Bureau provided additional training to help members better understand the expectations placed on them. AC Resch directed Commander Simon to provide training to RRT supervisors, to help address problems with the Bureau's FDCR and AAR processes. Unfortunately, these efforts do not appear to have been successful. The FDCR and AAR processes continued to be seriously delayed throughout the protests of 2020.

Regarding the records backlog, AC Lovell indicated he became aware of the issue at some point, and likely approved efforts to relocate the Records unit to a safer working area and provide them with the necessary equipment to work remotely. AC Lovell agreed that delays in the transcription process could negatively impact important other functions, like an AAR, or a prosecutor's charging decision. Under the division of command staff responsibilities described by AC Lovell, DC Davis likely would be more directly responsible to day-to-day operations like the continued operation of the Records unit. However, AC Lovell's inability to describe more specific details about the actions the Bureau took to address the records backlog suggests he did not specifically prioritize this issue. It is possible that the Bureau simply did not have the resources to eliminate the backlog quickly given the confluence of problems that created it.

Regarding the issue of whether senior command staff provided visible leadership to Bureau members, both the critical assessment and RRT members themselves agreed senior Police Bureau command staff did not provide sufficient visible leadership to the Bureau members responding directly to protest activity during 2020. Both AC Dobson and AC Lovell rightly noted that most of the job duties of Chief's office staff concern relatively high-level functions, like budgeting and interacting with elected officials. However, neither directly addressed the increasing isolation crowd control officers felt over the course of the summer of 2020, the feeling of being "alone on an island" as expressed by Captain Clark. Had senior command staff provided more visible leadership, it is possible officers responding directly to protest activity would have been more receptive to and engaged with what training they received regarding the appropriate use, documentation, and investigation of force they received in 2020. Ultimately however, given the extraordinary circumstances the Bureau faced during 2020, it seems likely its FDCR and AAR processes would have still broken down during 2020, no matter how much visible leadership senior Bureau command staff provided.

Where senior command staff did provide visible leadership, in some cases they did so in a manner that appeared to be inconsistent with statements and direction given by Mayor Wheeler, who was also Portland's Police Commissioner. Less than seven hours after Mayor Wheeler made a statement directing the Bureau to end the use of CS gas for crowd control, AC Lovell authorized the Bureau to issue a press release that characterized its use of CS gas very differently than Mayor Wheeler did. Although AC Lovell clarified he did not intend to suggest the Bureau would not follow the Mayor's direction, he also candidly admitted he knew the decision "could get me fired immediately." That Mayor Wheeler felt compelled to speak to AC Lovell after the Bureau issued its press release, and later chastise all the Bureau's senior command staff via email, suggests Mayor Wheeler was concerned the Bureau would not follow his direction to end its use of CS gas for crowd control.

Other information IPR found during this investigation suggests senior command staff did not appropriately prioritize maintaining an adequate CMIC cadre. As described by AC Dobson in his interview, a CMIC managing the Police Bureau's response to a protest is endowed with a great deal of authority. They may declare an event to be a civil disturbances or riot, they may authorize the use of CS gas, and they may authorize officers to disperse protesters. CMICs must make consequential decisions, in real time, that balance the Constitutional rights of individual community members with the need to maintain civil society. AC Dobson and AC Lovell both noted that retirements and the COVID-19 epidemic impacted the size of the Bureau's CMIC cadre and its ability to train additional staff. AC Lovell also noted it was not clear at the beginning of the 2020 protests that they would continue for so long. However, it does not appear that command staff took any meaningful action to increase the cadre of available CMICs at any point during the 2020 protests. Similar to other issues reviewed during this investigation, once the problem arose it may have been too late to easily correct.

This investigation likewise found the Bureau appears to have done little to improve the accuracy of its ICS records, including IAPs and ICS-214s. This is also true of the years since the 2020 protests. Although the Bureau has since moved its AAR process to a more trackable system, ICS records remain fillable PDFs. As such they are still prone to the inaccuracies, inconsistencies, and errors IPR encountered during this investigation. Across the course of its paragraph 192 investigations, IPR expended hundreds of hours searching for and reviewing information that should have been accurately maintained in IAPs, ICS-214s, and other ICS and IMT related documentation. Simply put, the Bureau's current practice is not an adequate or accurate means of tracking the consequential decisions associated with managing the Police Bureau's response to a public order event.

In some cases, IPR found senior command staff appeared to focus on counterproductive objectives to the detriment of the Bureau's ability to respond to protest activity. Both Captain Clark and AC Dobson indicated DC Davis directed that the Bureau attempt to maintain a large, fenced off area around the Justice Center. Captain Clark indicated DC Davis was adamant regarding his decision, even after experienced crowd control officers warned him of the negative consequences, which included Bureau members using large amounts of force to defend the fence, and themselves frequently being the victims of violent actions from some protesters.

This investigation found interesting parallels with case #2022-B-0022 the investigation regarding RRT training. In that investigation, IPR learned that RRT was largely allowed to train itself and develop its own

tactics with little oversight. In this investigation, IPR learned that RRT and other officers responding to protests were largely trusted to use a massive volume of force without much oversight from the Chief's office. This was despite the fact that the systems designed to provide necessary feedback on whether this force complied with policy were broken and there were many indicators that should have caused serious concern.

Regarding DC Davis, the information IPR found during this investigation demonstrates he played a large and important role in managing the Bureau's response to the 2020 protests. This investigation found DC Davis was, at times, resistant to receiving information that contradicted his own determinations, insisted on maintaining a fenced-off area, and directed crowd control officers to continue to use forceful dynamics instead of approving and implementing other tactics. Had IPR been able to interview DC Davis, he may have provided further explanation for some of this but without an interview we must proceed with a recommendation based on the information available. This investigation found DC Davis did not take sufficient action to timely and adequately clarify Bureau policies related to the use and investigation of force. IPR's recommended finding for allegation #1 is **sustained**.

Regarding AC Resch, this investigation found she took the lead in directing the Bureau's response to the delayed FDCRs and AARs. Although PPB and the City were receiving frequent requests from DOJ and COCL about this, AC Resch's actions appear to have been largely self-initiated. AC Resch directed that crowd control supervisors receive additional training related to completing FDCRs and AARs correctly and added additional staff to the AAR review process. Ultimately however, these efforts were unsuccessful and the Bureau continued to not complete all AARs as required.

IPR recommended a sustained finding against AC Resch under case #2022-B-0024, related to the continued failure of the Bureau's FDCR and AAR processes during 2020. That case focused on the issue of the Bureau not completing all AARs as required. IPR based that sustained recommendation largely on the fact that AARs continued to be seriously delayed in 2020, despite AC Resch's efforts.

Related to the current investigation, IPR found AC Resch appears to have been the only senior Bureau command staff who recognized problems were emerging with the Bureau's force review processes and directed the Bureau take action to try and solve those problems. IPR also found it would have likely been difficult or impossible for the Bureau to maintain its current FDCR and AAR processes, as approved by DOJ, under the circumstances of 2020.

This investigation found AC Resch took significant action to attempt to timely and adequately clarify Bureau policies related to the use and investigation of force. While these efforts were ultimately unsuccessful, this investigation found AC Resch recognized a growing problem and took the appropriate initiative to try and solve it. IPR's recommended finding for allegation #2 is **not sustained**.

Regarding AC Lovell, this investigation found he largely deferred management of the day-to-day operations of the Police Bureau to DC Davis and the assistant chiefs and focused on higher level politically oriented functions. When interviewed, AC Lovell described being aware of most of the steps the Bureau took to respond to the 2020 protests, as well as the various issues reviewed by this investigation. However, AC Lovell could not describe any particular Bureau response in detail. Further, AC Lovell does not appear

to have taken steps to assess the effectiveness of the actions taken by DC Davis, AC Resch, or the other assistant chiefs.

It is true that the role of the Chief was focused increasingly away from PPB's internal workings as 2020 wore on. AC Lovell describes a long list of issues and responsibilities that required his attention. This in turn put more focus on DC Davis as the person responsible for PPB's day-to-day operations. However, AC Lovell was ultimately in charge of the Police Bureau during most of the 2020 protests, and he was responsible for overseeing DC Davis, AC Resch, and the rest of the Bureau's senior command staff. AC Lovell's relative lack of awareness of the details of their actions, or their effectiveness, suggests he did not appropriately identify emerging problems with the Bureau's uses of force while responding to the 2020 protests, or prioritize taking action to solve them. This may be expecting more of one person than is actually possible and, as mentioned previously, there is no language in paragraph 192 or PPB Directive that specifies what would have been sufficient but as Chief, he bore ultimate responsibility to ensure force policies were clear to frontline PPB members.

This investigation found AC Lovell did not take sufficient action to timely and adequately clarify Bureau policies related to the use and investigation of force. IPR's recommended finding for Allegation 3 is **sustained**.

Exhibits:

NOTE: Because cases #2022-B-0024 and #2022-B-0025 address similar issues, IPR identified many documents as exhibits for both investigations. For the sake of clarity, IPR numbered all exhibits sequentially across both cases, and both cases share a common exhibit list.

1. Portland - DOJ amended Settlement Agreement
2. Directive 635.10 - Crowd Management - Crowd Control - 2nd revision
3. Directive 1010.00 - Use of Force - 3rd revision
4. OIG 07-09-20 FDCR AAR training
5. Resch 07-14-20 AAR email
6. DOJ - COCL 07-27-20 records request
7. OIG 08-05-20 records response email
8. OIG 08-05-20 records response memorandum
9. CAO 08-26-20 email to DOJ - COCL
10. Resch 09 2020 AAR summary
11. DOJ 10-08-20 document request
12. TRO 07-30-20 Bushong - streaming video
13. TRO - 1st Hernandez - CS
14. TRO - 2nd Hernandez - stipulated LL
15. TRO - Simon - media
16. ORS 181A.250
17. Mayor Wheeler 06-06-20 statement
18. Mayor Wheeler 09-10-20 statement
19. 09-10-20 PPB CS rebuttal press release
20. Mayor Wheeler email to Chiefs

21. Mayor Wheeler 09-25-20 CS clarification
22. Lovell, Chuck 11-30-20 Executive Order CS Gas
23. Clark, Jacob 06-17-21 RRT resignation memorandum
24. Critical Assessment phase one report
25. City's response to Critical Assessment
26. Incorrect & Corrected 06-30-20 ICS-214s
27. Less Lethal Munitions memo 09-23-21
28. 06-03-20 ICS-214
29. Davis, Chris interview request emails